the Freeman

Ideas on Liberty

JANUARY 1973

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Freeman 1972

12 Issues in One Bound Volume

Attractively sewn in a single volume with hard cover, the twelve issues from January through December — 768 pages, fully indexed for handy reference to the latest literature on freedom.

Only $5.00

Also available, the bound volumes for 1965 through 1971, each year $5.00. ($4.00 each on orders for five or more.) These bound volumes of *The Freeman* match in appearance and otherwise continue the twelve volumes of *Essays on Liberty* containing selections from Foundation releases prior to 1965.

ORDER FROM: THE FOUNDATION FOR ECONOMIC EDUCATION
IRVINGTON-ON-HUDSON, NEW YORK 10533

LICENSED TO ONE.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Freeman

VOL. 23, NO 1 • JANUARY 1973

The Premises of Freedom — Donald M. Dozer — 3
Societies are to be judged by their impact on the individual, and his freedom.

A Herculean Task — Francis E. Mahaffy — 11
Concerning the limits of one man's responsibility to others.

Valueless Education — Ray Colvard — 15
A teacher's call for a reformation in the establishment—a reorientation toward freedom.

Before We Burn It Down! — E. F. Wells — 25
A sobering look at the results of socialism before we destroy our private enterprise economy.

The Founding of the American Republic:
18. The Bill of Rights — Clarence B. Carson — 31
The arguments and arrangements for a listing of protections against governmental infringement of personal rights.

Drug Legislation — Mainline to Disaster — Robert Patton — 45
To outlaw a bad habit creates a profitable market opportunity for criminals.

Herbert Spencer: Apostle of Liberty — Ronald F. Cooney — 54
More than eighty years ago, he spoke for liberty against threats from a growing Statism.

Book Review: — 61
"The Fall of the American University" by Adam Ulam

Anyone wishing to communicate with authors may send first-class mail in care of THE FREEMAN for forwarding.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Freeman

A MONTHLY JOURNAL OF IDEAS ON LIBERTY

IRVINGTON-ON-HUDSON, N. Y. 10533 TEL.: (914) 591-7230

LEONARD E. READ *President,* Foundation for Economic Education

PAUL L. POIROT *Managing Editor*

THE FREEMAN is published monthly by the Foundation for Economic Education, Inc., a nonpolitical, nonprofit, educational champion of private property, the free market, the profit and loss system, and limited government.

Any interested person may receive its publications for the asking. The costs of Foundation projects and services, including THE FREEMAN, are met through voluntary donations. Total expenses average $12.00 a year per person on the mailing list. Donations are invited in any amount—$5.00 to $10,000—as the means of maintaining and extending the Foundation's work.

Copyright, 1973, The Foundation for Economic Education, Inc. Printed in U.S.A. Additional copies, postpaid, to one address: Single copy, 50 cents; 3 for $1.00; 10 for $2.50; 25 or more, 20 cents each.

THE FREEMAN is available on microfilm from Xerox University Microfilms, Ann Arbor, Michigan 48106.

Some articles available as reprints at cost; state quantity desired. Permission granted to reprint any article from this issue, with appropriate credit, except "The Founding of the American Republic."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Premises of Freedom

DONALD M. DOZER

THE "mania of saving worlds," wrote Thomas Carlyle, "is itself a piece of the Eighteenth Century with its windy sentimentalism. Let us not follow it too far. For the saving of the *world* I will trust confidently to the Maker of the world; and look a little to my own saving, which I am more competent to!"[1]

As individuals we are not, in any realistic sense, as much a neighbor to the English clerk in Fleet Street, or to the Russian worker in Dnepropetrovsk, or to the Chinese peasant in Yunnan as we are to Mr. and Mrs. John Doe across the way. We all live *in* the world, but we do not live *for* the world at large except in a way which is meaningless for all practical purposes. "They have had a peace meeting here" in Concord, Henry D. Thoreau wrote to Ralph Waldo Emerson who was in England in November 1847, "and some men, Deacon Brown at the head, have signed a long pledge, swearing that they will 'treat all mankind as brothers henceforth.' I think I shall wait and see how they treat me first."

Each of us lives in a community which has, to be sure, round-the-world relationships, but which, at the same time has a hard core of community relationships transcending in importance those of any other area. The challenge to successful living on the Main Streets of America is greater and even more exhilarating than is the call to "Greenland's icy mountains" or "India's coral strand." In each individual conscience is found the only true basis for universality.

"To be of one's own region, of one's corner of the earth," writes

1 "The Hero as Man of Letters" in *Heroes and Hero Worship* (Boston, 1902), 203.

Dr. Dozer is Professor of History Emeritus at the University of California, Santa Barbara.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the Brazilian sociologist, Gilberto Freyre, "is to be more of a person, a living creature, closer to reality. One must belong to one's own house in order to belong more intensely to humanity."[2] Like Antaeus of old we renew our strength every time we touch our own earth. We will find our best inspiration in our own reality. Did not Washington, Jefferson, Franklin, Lincoln as they worked and lived in the service of their nation perform also a service to mankind in general? In this sense they can truly be called cosmopolitan patriots, whose fame endures precisely because they were, first of all, patriots. Universal values can have meaning for us all only within the framework of our own national realities. The more intensely we live our American beliefs the more fully we enrich the human race.

In international relations voluntaryism or the free consent of peoples, growing out of the genius and efforts of each nation, must remain our principal reliance. Our dictates are resented by foreign peoples, for many of those peoples have traditions and cultures long antedating ours and they like their own ways. Our creed of liberty does not authorize us ever to say to another people: "We know what is good for you better than you yourself know, and we are going to make you do it." Too many people think they know what is good for other people. To assume all wisdom and all justice is to fall into a fatal delusion of universality, if not indeed divinity. It was Hamlet's tragedy that he believed that because the time was "out of joint" he "was born to set it right." Our *peccavimus* must, therefore, include the greatest of all sins, blasphemy, or making ourselves equal with God. Justice Oliver Wendell Holmes once said that the first lesson of philosophy is to learn that one is not God.

The Political Dilemma

Our persistent political dilemma arises from the fact that while we assume in our political philosophy that only the people can say, through their ballots, what is good for them they expect their leaders to tell them what is good for them and to get it for them. The ideological battle between John Stuart Mill and Karl Marx still goes on, projected with vital meaning into our present age. It is a conflict between those who hold that government should do only what individuals themselves lack the means to do and those who demand that government assume a positive role in promoting indi-

[2] Gilberto Freyre, *Região e Tradicão* (Rio de Janeiro, 1941), 20.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

vidual welfare; between those who would enlarge the area of individual initiative and freedom and those who would circumscribe it with legislative and official limitations; between those who regard society as only a changing complex of individual citizens and those who consider it as an organic specimen to be systematized and directed; between those who would keep open the book of life containing the pages of the past and those who would write a brand new book starting with the pat formulas of a narrow science. In this conflict the old liberalism of the free man in society will be destroyed by the new positivism unless we do something about it.

What we all desire is to get some of the advantages of conscious social management without sacrificing our individual freedom. Our most difficult problem as social beings is to derive from society the constant aid that we need without accepting its yoke. What we really want is the fullest possible individualism consistent with the putative benefits of collectivism. The individual action which is most highly esteemed and which is most satisfying over the years is not utterly free individualistic abandon but rather individual enterprise which is socially motivated. We desire a balanced combination of responsible individual action on the one hand and responsible social action on the other. But we must exert constant vigilance to ensure first the achievement and then the maintenance of this essential balance between the individualistic-anarchist impulse on the one hand and the collectivist-socialist impulse on the other. The emphasis must be placed not upon equality but upon the harmony of unequal classes and individuals. This is the synthesis which we desire. This is the reconciliation between the old liberalism and the new. "The individual," Reinhold Niebuhr has acknowledged, "cannot find his fulfillment outside of the community; but he also cannot find fulfillment completely within society."[3]

Voluntary Cooperation

Social action taken primarily for the purpose of creating favorable conditions for individual development, if undertaken cooperatively, is not inconsistent with the fullest individual freedom. In just such endeavors men may reach their highest sense of accomplishment and feel their greatest glow of satisfaction. By voluntary, cooperative action the American pioneers raised their homes in new wildernesses and

[3] Reinhold Niebuhr, *The Irony of American History* (New York, 1952), 62.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

organized joint stock companies without direction by government. By concerted group activity a people not only may harden their own fiber and character but may enrich themselves by their own efforts, literally raising themselves by their own bootstraps. All the people in a society acting together can do many constructive and wholesome acts which single individuals cannot do. But the value of every cooperative effort, every institution, every governmental policy must be judged by its effect upon individuals. If it is not conducive to individual growth it must be abandoned, for the aim of society must be not society but the individual. The objective that must be kept steadily in mind is to increase the range of opportunities open to each individual in society and to create the kind of conditions which will predispose him to make moral choices as between the largest possible number of available opportunities.

The Great Danger of Ascribing Moral Attributes to Government

Great danger comes from ascribing moral attributes and therefore moral duties to government. For government is not moral, though a state may make itself a champion of moral causes and may claim moral power for political purposes. The proper function of government is to enact and enforce legal justice as between man and man, not to establish changed economic and social relations between them. When it tries to do the latter it finds itself lacking in legal criteria for action. Statutory enactments may adequately define legal justice, but they cannot define social justice. When a government undertakes to be the fountainhead of social justice it makes itself responsible not simply for the legal or orderly operation of society but also for the moral conduct of individuals in society. As the number of citizens who act illegally is much smaller than the number who act immorally, the state which claims social justice functions must enlarge not only its obligations but also its coercive authority. Love and charity are primarily individual responsibilities. They cannot be practiced or enforced by society as a whole. Social justice is a paradox and social love is meaningless. What kind of social action can possibly be taken which will assure to all citizens freedom from want and freedom from fear? And would not such action also necessarily have to assure them freedom from desire and ambition, freedom from adventuring, and freedom from risk?

We can be certain that no social action can be justified in the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

long run if it causes individuals to lose their integrity and character. The indispensable thing is the preservation of personal morale, the *élan vital* or inner drive of individuals, the right of each individual to be a person. What is needed is a reassertion of egoism, a new ringing, hands-clenched affirmation by each individual that "I am I. I am a unique human being. I want to live my life, and I am not willing to be suffocated even by those who wish me well and say that they intend to do me good." As Ayn Rand is pointing out, it is a psychological impossibility to live someone else's life. If people do not live their own lives, nobody will live at all. If life, as Coleridge defined it, is "the principle of individuation" then fusion, coalition, alliance, and merger which destroys variety and suppresses individualism is death.[4] Whatever builds up individual virtue, therefore, is socially good; whatever tears it down is socially evil. Whatever increases human worth increases the strength of our society; whatever reduces it weakens us all.

The maintenance of the proper balance between individualism and collectivism requires that state intervention should only supplement individual requirements in character and degree. When it does more, the state starts down the road toward totalitarianism. What is acceptable social conduct for an individual must be determined largely by the individual himself, except in cases which have been deemed to be of overriding social concern ever since the Mosaic code.

Man Inclined Toward Goodness

This conception assumes that an impulse toward good citizenship is the natural condition of mankind. If it were not so, government and social life generally would be impossible. To nurture this condition but not to smother it is the true function of government. Governmental action should be limited merely to attempts to remove the more formidable barriers to the achievement of this goodness, without, however, forgetting that the individual struggle for goodness, is, by divine law, a necessary part of the process. Our assumption that we can eliminate tragedy from human life is an impious conceit, for tragedy is embedded in the very processes of history. The ancient Greeks, who perhaps attained the finest adjustment to life of any people in the world's history, accepted tragedy and tried to sublimate it into something constructive. "The final wisdom of life," says Niebuhr, "requires, not the annulment of

[4] Samuel Taylor Coleridge, quoted in Joseph Needham, *Time, The Refreshing River* (London, 1943), 187.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

incongruity but the achievement of serenity within and above it."[5]

Only the travailing soul experiences great spiritual revelations and produces great works of art. The most beautiful lines in a human face are the lines etched there by struggle. Unless the chrysalis of the butterfly is allowed to struggle out of its cocoon it does not develop the wing strength necessary to fly. If the stone in the arch of great cathedrals is not made to bear its full share of structural stress, it will crumble away — not from strain but from lack of strain. Opposition must not be undervalued as a stimulus to action. "To overcome difficulties," wrote Schopenhauer, "is to experience the full delight of existence." The destiny of humanity, it appears, is to advance through personal struggle. Nothing is more certain than that in the divine scheme of things each individual must endure the consequences of his own wrongdoing, misjudgments, and shortcomings.

The Values Individuals Hold

We must believe that the final judgment on our handling of the problems of our times will be expressed in terms of individual values. The passion for the preservation of those values is ineradicable in every human being. Even modern war, which represents the height of collectivist effort, must still be "sold" to the people under the guise of promoting individual liberty. The first desideratum for an ordered universe is to establish order within each individual self. This point was made many centuries ago by the Chinese philosopher Confucius, as follows:

> The ancients who wished to illustrate illustrious virtue throughout the kingdom first ordered well their own states.
>
> Wishing to order well their own states, they first regulated their families.
>
> Wishing to regulate their families, they first cultivated their persons.
>
> Wishing to cultivate their persons, they first rectified their hearts.
>
> Wishing to rectify their hearts, they first sought to be sincere in their thoughts.
>
> Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge.
>
> Such extension of knowledge lay in the investigation of things.
>
> Things being investigated, knowledge became complete.
>
> Their knowledge being complete, their thoughts were sincere.
>
> Their thoughts being sincere, their hearts were then rectified.
>
> Their hearts being rectified, their persons were cultivated.
>
> Their persons being cultivated, their families were regulated.
>
> Their families being regulated, their states were rightly governed.

[5] Reinhold Niebuhr, *op. cit.*, 62-63.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Their states being rightly governed,
The whole kingdom was made tranquil and happy.[6]

The question that constantly haunts each one of us, despite all the hapless confusion and obscurantism with which it has been surrounded, is "How shall I live up to the best in my own nature?" This is intensely personal. Each one must begin with himself, through a repentance and rebirth which will establish a new and right relationship between himself on the one hand and God and his fellow men on the other. Only such an effort of individual wills can restore the sanity and relieve the hypertension of our years. The essential problem is the problem of sin in the world, and no one has ever found a mechanistic answer to that. When a durable answer is found it will have to be found in each human heart. We perceive that the rules that govern our mastery of the physical world are of little avail in spiritual matters. Our material wealth is accompanied by spiritual poverty. We realize that "the infinite perfectibility of man" of which Thomas Jefferson spoke is not attainable by our methods. It is our spiritual deficiencies which predispose us to failure and fright.

6 James Legge, *The Chinese Classics*, 5 vols., (Hong Kong University Press, Hong Kong, 1960), I, 357-359.

The human adventure is not a really human adventure unless it is viewed as also a divine adventure. The founders of the American government wisely warned that the durability of the new nation would depend upon individual virtue. Whether to make that our goal or not is the decision on which our future hinges.

Faith in Freedom

We must place our faith in the excellence of free institutions and their destiny to survive. The Soviets have preached so dogmatically the inevitable triumph of Communism that they have contrived to draw the design of history over to their side. We need a counter-faith in the inevitable triumph of freedom. We need to remind ourselves that everything truly evil will in time disclose and punish itself. It is the function of evil to destroy itself. Otherwise we would not be living in a moral universe, a universe which makes sense. Collectivist pressures to make the American system over in a foreign image muffle our voices when we try to speak out for human freedom. A society in which the government is supreme over its citizens is not a free society. A governmentally managed economy is not a free economy. A state which is the master and not the agent of its citizens is a total state.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

To the extent to which we subordinate ourselves to foreign influences or limit the freedom of individual citizens beyond traditional bounds the authority of our national example is limited. It behooves individuals, therefore, so to order their lives as to conform to the framework of history within which they live and move, confident that this framework is divinely implanted within it.

We can do so only when we make sure that the present lives in harmony with the past. If we can accomplish this result we can be optimistic about the future, for, in the words of Professor William Ernest Hocking, "no man who knows reality as purposeful, and history as therefore significant, can have a right to ultimate doubt, nor to ultimate fear, nor to ultimate condemnation."[7] Freedom should not be impatient, for she is immortal.

[7] William Ernest Hocking, *Strength of Men and Nations: A Message to the U.S.A. vis à vis the U.S.S.R.*, (Harper and Brothers, Publishers, New York, 1959), 8.

IDEAS ON LIBERTY

Nature's Way

SENTIMENTAL MEN AND WOMEN, observing the weaknesses of the human race, hope to spare their fellow-beings pain and suffering by relieving them of personal responsibility.

Thus we get our uplift movements, our paternalism, our coddling of the shiftless, the thriftless, the unfit.

This man will not save money for his old age; therefore, we shall do his saving for him.

Another man will not learn a trade; therefore, we shall protect him against the consequences by unemployment insurance. A third man refuses to conserve his health; therefore, we shall pay him a weekly dole in time of sickness.

That is not nature's way. Nature would compel us to suffer the consequences of our acts. Nature puts the responsibility on the individual.

I do not argue for less sympathy and kindness. I merely urge the necessity of responsibility.

From *The William Feather Magazine*, October, 1972

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A HERCULEAN TASK

FRANCIS E. MAHAFFY

WHILE SERVING as a missionary in Africa, I received a letter from a fellow minister in which he stated, "We have a responsibility for the welfare of all men." I am sure that the author of this statement is a pious Christian who has a genuine concern for helping the poor in Africa and in the United States. Yet the philosophy behind such a statement is hostile to the Christian ethic. If generally applied, it would destroy Christianity and reduce the world to abject poverty. A more careful scrutiny of this cliche will reveal that it would destroy the very welfare it aims to promote. Yet to challenge such a pious-sounding statement immediately categorizes the challenger as lacking in Christian love. One writer described those who oppose the coercive redistribution of the Welfare State as a "bunch of cold-hearted rascals."

Nevertheless, I emphatically deny that I am responsible for the welfare of all men. Nor is the minister who made this assertion. Nor is anyone. Such a task is impossible of fulfillment. A scrutiny of the meaning of this all-too-popular cliche is very much in order.

Had my friend said, "*I* have a responsibility for the welfare of all men," I might have considered him irrational and utterly unrealistic. Had he sought to fulfill this responsibility as an individual, he might amuse himself in the effort, with few adverse effects except on himself and his family.

The Rev. Mr. Mahaffy served for twenty-three years as a missionary of the Orthodox Presbyterian Church in Ethiopia and is presently serving as a home mission pastor north of Chicago.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But when he said "we," he was seeking to rest this herculean task on my shoulder and implying that, were I a devout Christian, I would naturally assume my responsibility. If *all* men are our responsibility, the task obviously must be a collective one with the *we* broadened to include all in our society acting through their representatives in the state. This can not be accomplished apart from legal coercion. The author of a recent book clearly indicates this when he writes:

> But when people will not give voluntarily, is it wrong to make sure that they at least produce the external fruits of Christian love, even if this means legal enforcement? Is the freedom of people to give or not to give more important than the desperate needs of other human beings? . . .
>
> The Christian himself must remain uncommitted to any human system, holding himself free to move where God leads him at a given time and under a given set of conditions. . . . The free enterprise system is best suited for an individualistic society where high value is placed on material gains; the socialistic system is best suited for a large, strongly interacting society where it is essential to retain some human values.[1]

[1] Richard H. Bube, *The Human Quest* (Waco, Texas: Word Book Publishers. 1971) pp. 223-4, 236.

This popular cliche seeks to fix responsibility for universal welfare. Responsibility, however, involves a higher authority to whom we must give an account. A child is responsible to his parents. Parents are not responsible to their children, but responsible to God for the care of their children. We have a responsibility to those in authority over us to obey the laws and not to interfere with the freedom of our neighbor. We do not have a responsibility to other people as such. If we did, they would have a just claim to our wealth, our care, or for whatever our responsibility involved. This is a popular concept but not a Christian one. For the Christian, charity and help must spring from love to God and must be voluntary in nature to be true charity.

Armed Hitchhikers

Sometime after I received the above-mentioned letter, I was on the way to preach in a distant African village when stopped by fifteen armed villagers who wanted a ride. When I declined because of lack of room and began to drive on, a gun was leveled at my head. Though my righteous indignation (a clerical expression for anger) was aroused, my respect for the power of the rifle impelled me to stop, to compromise my former refusal, and to "voluntarily" offer

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

rides to *two* of the villagers. When ten of them squeezed into my Volkswagon Combi along with my other passengers, I refused to grant that I had a responsibility for the welfare (transportation to the next village in this case) of all ten. Keeping my eye on the many rifles to make sure none threatened me from behind, I was prepared to resist this claim upon my property. I won a partial moral victory when, after a protracted discussion, all but two of them backed out. (The added adrenalin put some extra punch into my sermon that morning.)

Shortly thereafter a boy from a neighboring village came to our house with a few eggs to sell. He looked ill. Upon inquiry we learned that the family of ten children with their parents were on their last bag of grain, reduced to one scant meal of coarse bread per day. We purchased a sack of grain and took it to the family as a gift to help tide them over until harvest. But we did not have a responsibility to the hungry family, nor did they have any claim on our charity. Our responsibility we deemed only as one to God to help the neighbor we meet in his need. This, while a much-needed Christian activity, is something far removed from the concept of a universal responsibility for all men.

My friend failed to define what he meant by the *welfare* of all. Just how *well* is each to *fare?* A good daily wage for common labor in the area in which we worked was about forty cents. Should our effort at assuming responsibility for all begin with increasing the increment of those in our employ or in giving aid to the vast majority who lived on far less income? It is easy to state a pious cliche; it is quite another thing to put it into practice. Even if all the wealth of the world were evenly divided, I am told, each individual would receive something like $50 — the outer limit of fulfilling this responsibility to *all.* The attempt to fulfill this "responsibility" for universal welfare would necessitate complete collectivization. But as numerous economists have demonstrated, the result of collectivization is always an increase in general poverty, never an increase in the welfare of all.[2]

Love Thy Neighbor

None of us is responsible for the welfare of all men. This demand is not only impossible to meet but also would destroy the very welfare it proposes to promote.

We do, however, have a responsibility to our Creator which in-

[2] See Ludwig Von Mises, *Socialism,* F. Hayek, *Road to Serfdom,* and H. Hazlitt, *Economics in One Lesson* for examples.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cludes a proper relationship with our fellow man. This, first of all, involves a refusal to interfere with his freedom. The Apostle Paul summarized this obligation clearly:

> Love worketh no ill to his neighbor: therefore love is the fulfilling of the law. *Romans* 13:10.

We are responsible for obedience to the commands of God which forbid murder and all coercion, theft whether individually or the "legal plunder" of the collective, dishonesty in our dealings with him, and even coveting that which belongs to him. It involves also the positive demand of voluntarily lending a helping hand to the neighbor we meet in special need. One of the most effective ways of helping is to show him by example and precept that in this world the only way to improvement in welfare is by assuming our responsibility before God in refraining from coercive activity except to restrain violence, in using and improving our God-given minds and abilities, and by peaceful exchange of the fruit of our labor with others. Accepting a responsibility for the welfare of all men is a task that even a Hercules could not perform. Let us rather accept the limited responsibility which God has given to us and not seek to lay upon our own and the shoulders of others an unbearable burden.

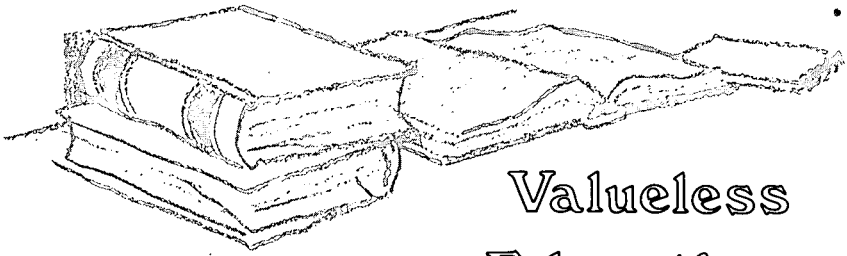
IDEAS ON LIBERTY

To Help a Neighbor

WHAT POSSIBLE MOTIVE can a man have for wanting to put the responsibility of social welfare on the willing shoulders of the bureaucrats in Washington? How much is needed? Who can say where poverty stops and plenty begins? Where can government get what it gives but from the people? How can it take it but by the use of force? How can it avoid taking more and giving less? We do not escape the problems of our needy neighbors by putting these problems at the door of the legislators in Washington. We only compound what must eventually return to us for solution.

GLENN PEARSON

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



Valueless Education

RAY L. COLVARD

It was found that all his property . . . was represented by valueless shares in bubble companies.

Thackeray: *Vanity Fair*

WE CAN CREATE an entertaining kind of excitement in the classroom talking about the great government-financed swindles of history: the Mississippi Bubble of Louis XIV and the South Seas Company of George I. We hold students' interest as we tell about the larcenous grabbing of railroad subsidies by California's Big Four. We can join with students to denounce the government partnerships which puffed up a utilities balloon for Samuel Insull and financed the invisible storage tanks of Billie Sol Estes. "The art of government," Voltaire said, "consists in taking as much money as possible from one class of citizens to give to the other." We support that, insofar as it does not touch our own enterprise.

Mr. Colvard teaches at Clairemont High School in San Diego.

In or outside the classroom we teachers ignore the bureaucratic beams which are in our own eyes. As an integral part of a government bureaucracy, we excuse our Federal dependency and even enhance the role of government's intervention in our schools. The National Education Association, in the true spirit of Parkinson's Law, actively lobbies for a cabinet post – Secretary of Education. We blandly ignore the widespread taxpayers' votes which have turned down educators' bond proposals election after election. We might consider the possibility that their votes are expressions of "no-confidence" in our programs and that American taxpayers may believe that they have been conned into investing in America's fastest growing bubble company – public education.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

• In favoring our security over freedom and the equality of mass performance over individual excellence, we are systematically undermining the fundamental concept of a free market economy. The thrust of our policies has been to place the public school systems among the liabilities rather than among the assets of the wealth of the nation. A fair question might be this: Should public education be allowed to go the way of the stage coach and canal boat? Henry Hazlitt noted: "It is just as necessary to the health of a dynamic economy that dying industries be allowed to die as that growing industries be allowed to grow." A case could be made for rendering out what is valueless in educating the nation's youth.

Premises Stated

To paraphrase Leonard Read, the *Freeman* reader has a right to know my biases. Certainly I favor education. Long years of classroom teaching in public schools have whitened my hair, thickened the lenses in my bifocals, and rounded my shoulders. I am proud of my work and I have a solid respect for the great majority of my co-workers. I can not objectively appraise the superintendents, associates and assistants in my business. They keep their own counsel. Nor can I speak for the educational directors, specialists and consultants. They seem to meet and confer with others at their hierarchical level. Meanwhile, in the classrooms across the nation we teachers and our students are trying to do the best we can with what we have. We don't do what we do well enough, however. The most charitable thing that can be said for us is that we are in conflict and are confused about our purpose and our far goals. A harsher indictment would be that we are effectively conditioning our students for purposeless living in a valueless society.

Students are not given freedom in our structured programming to exercise the principle of choice, to grow toward maturity in value judgment. The late Abraham H. Maslow wrote that education of youth, if it has purpose beyond the custodial, must be concerned with man's final values:

> . . . Questions: What is the good life? What is the good man? The good woman? What is the good society and what is my relation to it? What are my obligations to society? What is best for my children? What is justice? Truth? Virtue? What is my relation to nature, to death, to aging, to pain, to illness? What is my responsibility to my brothers? Who are my brothers? What shall I be loyal to? What must I be ready to die for?

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

We have encouraged our youth to "do it if it feels good." We have avoided fixed values. It would seem that our primary aim has become bigness. We expand our programs wildly to maintain our position in claiming financial and legislative support from an expanding government.

An old folk song runs through my brain. It begins with, "There was an old lady who swallowed a fly, I don't know why she swallowed the fly. . . ." To get rid of the fly she, according to the song, swallowed in turn a spider to swallow the fly, a bird, a cat, a dog, a cow, and then, a horse. The song ends abruptly with, "she's dead, of course." As teachers we note apprehensively that mushrooming problems in public education have progressed far beyond the "fly" stage, and we fear we are approaching the year of the "horse". An uncomfortable feeling prevails that successive decades of American educators have jumped down the pedagogic gullet in search of an illusive fly which is becoming more and more enveloped in the hierarchical bowels of birds and cats and other misplaced instructional innovations. Even among educators we need to place a limit on gullibility.

Thomas Paine wrote these lines in *The American Crisis* No. 1, December 23, 1776:

> . . . What we obtain too cheap, we esteem too lightly; tis dearness only that gives everything its value. Heaven knows how to put a proper price upon its goods; and it would be strange indeed, if so celestial an article as FREEDOM should not be highly rated.

Old-Fashioned

Recently Professors William Ebenstein and Edward Mill published *American Government in the Twentieth Century*. Dr. Ebenstein has lived under two extremes of socialism, the Nazi control of the means of production and the Communist ownership. His is a profound gratitude to America. His text's chapter, "Democracy and the Free-Market Economy" reflects his feeling. I asked a colleague how he had presented this chapter's concepts to his students. He said, "It was a riot. I let the class comedian in each section read it aloud. The kids broke up laughing over the American housewife pushing her cart in the supermarket being called a reincarnation of the goddess of liberty. When the kids got to the 'crap' about customer sovereignty they were about ready to hold a demonstration in the cafeteria."

"My class thought the description of the market system was especially well presented," I told him.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"Strictly right-wing," he said.

John Maynard Keynes gave us this truism: "Economics is not everything." He went on to say, ". . . Do not let us over-estimate the importance of the economic or sacrifice to its supposed necessities other matters of greater and more permanent significance." Keynes' thesis was that individual economic freedoms must give way to the collective need in the planning of a welfare state. Professor B. F. Skinner calls the desire for freedom a "fetish" and Herbert Marcuse notes in *One Dimensional Man* that independence is overrated:

> Freedom of enterprise was from the beginning not altogether a blessing. As the liberty to work or starve, it spelled toil, insecurity, and fear for the vast majority of the population. If the individual were no longer compelled to prove himself on the market, as a free economic subject, the disappearance of this kind of freedom would be one of the greatest achievements of civilization.

Traditionally in public education we have vocally set major importance on individual liberties. Our property in freedom and our freedom to own property we have asserted, and many of us firmly believe, is the foundation of our economic system. We would that each man become an independent participant in a market, that he be free to determine where and for whom he shall work and what and from whom he shall buy. We believe in the maximum freedom for every man.

The President's Commission on National Goals stated in their 1960 report that:

> . . . Schools and institutions of higher education . . . have a particular responsibility to ensure freedom of expression by students, faculty and administrators alike. We must bring up young men and women to believe in the individual and to act upon that belief. There are subtle and powerful pressures toward conformity in the economic, social, and political world. They must be resisted so that differences of taste and opinion will remain a constructive force in improving our society.

The Urge to Conform

In a curious kind of logic the drive toward alienation from our society is unimaginative and collective. The matron in a *New Yorker* cartoon a few years ago looked at her husband who was wearing sandals, jeans, granny glasses and a beard and asked: "Do you have to be a non-conformist like everybody else?" On the campus and from the pulpit the phrase "materialistic capitalism" is spouted by liberal scholars and clergymen with the caustic distaste that was, in the McCarthy

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

era, reserved for the term "atheistic communism." The mouthing of political economic labels, however, does not indicate an adherence to a principle.

For a teacher to talk realistically with students about socialism and the welfare state may appear as foolhardy as it would be for a politician to denounce motherhood or for a minister to advocate sin. The trend in our teaching, directly and indirectly, is toward favoring some form of socialist economy.

There is a wry comfort for some of us in knowing our ideological counterparts around the globe have their troubles too. In Czechoslovakia educational leaders complained in the official party newspaper, *Rude Pravo,* last year that children learn in schools that socialism is good, but the free enterprise ideas they hear at home confuse them. "The school gives the children a materialist, atheistic, world outlook, but in the family there is still a belief in God and churchgoing."

The freedom of an American has three fundamental limits: (1) the regulations of organized society, (2) the rights of other individuals, and (3) the capacity of the individual. Within these dimensions each individual in the nation has every right to reach as high as he is able. Obviously such a concept of individual freedom would demolish the myth of mass equality and the belief in community ownership which are the stock in trade of slavemasters and slaves, of despots and dependents.

Early Warning

A quarter century before Robert Owen established his fanciful experiment in community brotherhood at New Harmony, Indiana and almost three centuries before Karl Marx published *Capital,* John Adams warned the nation against leveling schemes:

> Debts would be abolished first; taxes laid heavy on the rich, and not at all on the others; and at last a downright equal division of everything be demanded and voted. The idle, the vicious, the intemperate, would rush into the utmost extravagance of debauchery, sell and spend all their share, and then demand a new division of those who purchased from them. The moment the idea is admitted into society, that property is not as sacred as the laws of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence.

There is a terrible paradox for us, as teachers, to proclaim a declaration of independence. We are as a profession among the most devoted adherents of what Ayn Rand calls "the cult of depravity and impotence." We fear to test ourselves or our ideas in the mar-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ket place. We claim the benefits of weakness: tenure in office so that we need not compete, and compulsory attendence for students so that we are ensured a monopoly. We pay lip service to individual freedom, but we join with the economically non-productive who claim welfare rights, and the politically privileged who demand subsidies. If the concept of freedom is cloudy to us, it becomes virtually impossible to clarify our value judgment for our students. This point may be clarified by the explanation which is said to be overheard in Warsaw. "Under Capitalism man exploits man; under Socialism it's just the opposite."

25 Centuries of Socialism

I seek no quarrel with those whose conviction it is that individual freedom is a burden from which they would be relieved. I do not, however, wish them to relieve me of my freedom because they believe that my freedom should seem onerous to me.

The renouncing of personal independence, and absolute obedience to law, has been the keystone of twenty-five hundred years of socialism. The "philosopher kings" of Plato, the "general will" of Rousseau, the "co-operation" of Robert Owen, the "Welfare State" of Bismarck all lead to what the socialist novelist George Orwell pointed out as the basic feature of socialism: a totalitarian and terroristic nightmare. There is neither a collective conscience nor a collective responsibility. The purge trials of Moscow, the extermination camps at Auschwitz, and the peoples' court at Peking are ultimate examples of socialism following its collective dream.

Ironically, it is the "good" socialists who pose the threat to individual freedom in America. In spite of Marxian agitators like Herbert Marcuse and activists like Angela Davis, American institutions have little to fear from Marxism. The great danger is the relentless drive for a Utopia of Fabian Socialism as it is permeated through the Skinner Box of public education. It was the promise of Sidney Webb that "the inevitability of gradualism" will save the world from the evils of capitalism.

Fabians of the 1880's, as the society was formed, would support no violent overthrow of government, no seizure of political power. They would form a socialist *elite* to reconstruct society "in accordance with the highest moral possibilities." They would remake man in their image through education, by planting doubt as to the political capacity of the average man, and by teaching him to look to a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

social elite for direction. The national state, according to the Fabians, was a machine which they could take over and use to promote the general welfare.

Goals Achieved

A measure of the Fabians' success may be gauged by noting their goals as stated in the 1880's: social security; compulsory insurance managed by the state; minimum wage laws; progressive taxation on income and inheritance. The *Fabian Essays* of 1889, edited by R. H. S. Crossman, were writings by comfortable and patient men and women willing to use existing political machinery to achieve *their* social solutions in a far distance – years, decades, centuries.

The Fabians preferred John Stuart Mill over Karl Marx. They chose evolution over revolution. As summarized in the Fourteenth Edition of *Encyclopaedia Britannica*, ". . . the impact of Fabianism has been through the gradual permeation of Fabian ideas among teachers, civil servants, politicians, trade union officials and others in influential positions." Fabian Socialists' goal was not public ownership of all industry, "but a planned economy in which public and private ownership exist together."

The name of a thing changes, but the thing remains. Today the term "Fabianism" is virtually unknown while its principles are being widely espoused by today's educators under the concept of "the general welfare." Throughout the eighteenth and nineteenth centuries the rise in individual freedom was a continuous and spectacular phenomenon. During this century the trend has reversed itself, and the concept of Jeffersonian Democracy seems about as archaic to many Americans as the belief in the divine right of kings. It is now the collective right of the welfare state which holds primacy.

A Way of Life

The Swedish economist, Gunnar Myrdal, has observed Americans of this century as objectively as did the French aristocrat, Alexis de Tocqueville, during the nineteenth. In *Beyond the Welfare State* Myrdal points out to us that socialism, whatever else we may choose to call it, is now our way of life:

> The sanctity of private property rights to do what one pleases with a piece of land; or the right to keep all, except a nominal tax charge, of one's income and wealth for private consumption or investment; the freedom to enter upon any profession one wants at one's own risk; the right of the employer to negotiate individually with his workers, to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pay the smallest salary he can for the job, and to hire and fire whom he wants, when he wants; or the right of the worker to leave the shop as and when he desires; indeed, the free choice to own, acquire, and dispose, to work or to rest, to invest, to trade, to move – all these time-honored individual liberties are gradually eaten away by the controls of organized society.

At all levels in our national educational bureaucracy are those who firmly avow and actively foster the principles of Marx and Mao. Others favor the benefits of collective responsibility. Idealists preach "brotherhood" and the commune as the way of life. They search for a new philosophy of hedonism in a mass surrendering of reason and of living by emotion. They would drop out of competitive social systems and return to a pastoral and primitive world. These lovable and not so lovable "fringes" in our schools have only modest and fluctuating followings. But those who continue the fourth generation exposition of Fabian principles are malevolently corrosive.

Say What You Believe

Teachers who believe in the merits of the market system need to clarify their own value systems. When Jesus asked, "who is a neighbor?" his parable pointed clearly to a significant fact – that an individual, not a collective society, had come to another individual's assistance. We hear the rhetorical question: "Am I my brother's keeper?" and we have been altruistically conditioned to respond with "yes." The answer should be "no." When Cain posed this weasel-worded question, rather than state a forthright answer, he had never been expected under the Hebraic Code to provide for his brother's welfare. He'd just been expected to contain his envy and to refrain from murder.

Our task as teachers who believe in the free market is what Albert Jay Nock called an "Isaiah's Job." To paraphrase the words of Nock, there are in the Nation's classrooms many teachers who believe in the value of individual freedom. "They are obscure, unorganized, inarticulate, each one rubbing along as best he can. . . ."

Thoreau noted that "public opinion is a weak tyrant compared with our own private opinion." It is the values of the individual teacher, what he thinks of himself and in what respect he holds his students, that determine his classroom goals. There are powerful drives toward mediocrity. Only as free individuals can we reverse the course of history.

We can depict the role of Amer-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ican capitalism for what it is – the moral, non-material base of our freedoms. Professor Peter Viereck wrote in *The Unadjusted Man:*

> Private property educates its possessors in the moral qualities of sturdy independence, sense of responsibility, and the training of judgment and character brought whenever free choice is exercised in any field, including the economic field. It is these moral qualities, not the gluttonous material ones that have historically associated the rise of personal liberty with the rise of personal property.

It was the fundamental faith of a century of freedom-seekers from Locke to Jefferson that freedom for property would in the end result in liberties for men. During the decade before 1776 Colonial newspapers carried the motto on their masthead: "THE UNITED VOICE OF ALL HIS MAJESTY'S FREE AND LOYAL SUBJECTS IN AMERICA – LIBERTY AND PROPERTY, AND NO STAMPS." Conversely, the emotive nihilistic feeling of valuelessness which permeates the minds of floundering youth in the 1970's is summed up in the lyrics of a popular song, ". . . freedom's just another word for nothing left to lose. . . ." Freedom in teaching and in learning is more than an idea; it is a skill which will eventually disappear if it is not used.

Any true teacher, whatever his political bias, would take issue with critics of the 1972 Oldsmobile who based their criticism on the embryonic malfunctioning of the 1902 production model. Yet in hundreds of classrooms across the nation there is a continuing denouncement of laissez faire. Conclusions are formed against capitalism because of the monopoly policies of Jay Gould and the "watered stock" sold by Daniel Drew. Surely we need not continue fighting the mouldering ghosts of Henry C. Frick and George Pullman in this age of polyesters and jets.

Man Is Evolving

Capitalism is by historical standards still a young force. It is yet unpatterned and largely experimental. It is still creating and evolving. Its value systems are those of freedoms, individualists, and responsibilities. The philosopher Teilhard de Chardin saw man as nature's phenomenon, "the ascending arrow of the great biological synthesis." No teacher would restrain creativity and aspiration. "Man's chief purpose is the creation and preservation of values," stated Lewis Mumford. "That is what gives meaning to our civilization, and the participa-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion in this is what gives significance, ultimately, to the individual human life."

Socialist dogma of envious and vitriolic criticism toward American Capitalism labels it "Social Darwinism." Their frustrated name-calling should be a major source of our renewed confidence in our adoption of freedom of choice as Man's greatest value. "Social Darwinism," like "laissez faire" is not a term for which individualists need apologize. Man evolves in accordance with his freedoms. The great lesson that Darwin gave us is that man has not evolved. He is evolving.

IDEAS ON LIBERTY

Value and Exchange

FOR ALMOST two thousand years economic investigation was handicapped by the common notion that economic exchange is fair only as long as each party gets exactly as much as he gives the other. This notion of equality in exchange even permeated the writings of the classical economists.

Back in the 1870's the Englishman Jevons, the Swiss Walras, and the Austrian Menger irrefutably exploded this philosophical foundation. The Austrian School, especially, built a new foundation on the cognition that economic exchange results from a *difference in individual valuations*, not from an equality of costs. According to Menger, "the principle that leads men to exchange is the same principle that guides them in their economic activity as a whole; it is the endeavor to insure the greatest possible satisfaction of their wants." Exchange comes to an end as soon as one party to the exchange should judge both goods of equal value.

HANS F. SENNHOLZ, "The Formation and Function of Prices"

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

E. F. WELLS

BEFORE WE BURN IT DOWN!

SOME TIME AGO, Reverend Billy Graham spoke with one of the New Left's leading theorists, a part time university professor. Writing of it in *Reader's Digest*, (June, 1969) Reverend Graham added that the young man announced, "Our intention is to tear this country apart."

The religious leader asked, "What system would you substitute after this one's demolished?"

"I don't know," the young man replied, "but anything's better than what we have now."

If our young are so woefully misinformed, perhaps they ought to study in China, Cuba, or the Soviet Union, so that they can see and experience the serfdom suffered by the laborer under state ownership.

One year under those tightly regimented, totalitarian governments would undoubtedly leave these students as disillusioned as are the young Africans who have studied in Russia. According to Victor Lasky, author of *The Ugly Russian* (1965), Africans quickly learned that socialism was no cure for bigotry. Russian students often surrounded blacks and snickered over racial differences. A boy from Uganda was beaten by a mob of mocking Muscovites. A medical student from Ghana was found dead in the snow, a victim of violence. The Patrice Lumumba University where they study is a segregated school, dubbed "Apartheid U" by the embittered Africans.

The Sino-Soviet split and the intense nationalism displayed by most Russians has been enough to convince many of the brighter black radicals that socialism will not end wars. The tanks rolling into Czech-

Mr. Wells has been an educator and currently is a free-lance writer and supervisory training consultant.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

oslovakia were proof enough for most that socialism is no guarantee against imperialism. These students have shared the popular Czech joke currently being whispered among the Soviets. "What is the most neutral country in the world?" one Czech is supposed to have asked another. "Ah, Czechoslovakia, of course," his friend replied; "she doesn't even interfere in her own affairs."

So before we burn it down, perhaps we should face up to the alternatives. Pure socialism has never succeeded anywhere. Even though half the working force is assigned to farms, the Soviet Union has never been able to feed its people. According to *U.S. News and World Report* of May 15, 1972, one American farmer *outproduces seven* Soviet farm workers, because the American benefits personally from his increased productivity. The Ukraine, once the breadbasket of Europe, has been unable to feed the people, who have had to rely on wheat sold to them by such capitalistic countries as Canada and the United States.

As Eugene Lyons wrote in *Workers' Paradise Lost* (1967), Russia is a *laboratory test* of the effectiveness of private versus socialized farming. Because of the peasants' resistance and sabotage, Joseph Stalin was forced to grant them the right to own a cow, a few animals, and a small section of land on which they could produce products for the open market at free prices. These private farms make up *merely three per cent* of the acreage in use, yet they produce forty per cent of all Russia's vegetables, sixty per cent of its potato crop, and sixty-eight per cent of all its meat products.

Lazo Finds Problems in Cuba

Before Fidel Castro seized the farms, Cubans produced almost 8 million tons of sugar. It was Cuba's "money crop." Four years after Castro shot his way to power, sugar production had plunged to 4.8 million tons. To harvest this vital commodity, Castro forced the militia into the fields at the rate of 7 pesos a month (about $2.00). Conscripts must spend ten hours a day for a minimum of twenty-four months cutting cane or working the fields, policed by armed guards.

When the rebellious deride materialism, they should remember that the abundance of food in the United States is due both to our incentive system and our *industrial advances*. Machinery, improved fertilizers, electrical and mechanized power are contributions made by many of the giant companies that are now being harassed by those wishing to destroy our republic.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Cuba can scarcely feed its own. Toward the end of 1967, butter was no longer available. Chicken could not be bought, nor could fish. Except for infants and the aged, milk could be purchased *only* with a doctor's prescription. Dr. Mario Lazo, a noted Cuban attorney and author of *Dagger in the Heart* (1968), stated that meat was doled out at a quarter of a pound a week – "what Americans consume in a single hamburger." Even the contemptible *malanga,* humble cousin to the potato, which used to be given away free, was being rationed. Despite huge shipments of wheat from Canada, bread, too, was a scarcity. In fact, Castro's regime has been kept from bankruptcy, not only by aid from Russia, but by credit or aid from Canada, England, France, and even Spain.

Communes Fail, Incentives Restored in China

As for China, according to Morris R. Wills, one of the twenty-one GI's who defected and later returned, Chinese officials attempted to combine the agricultural cooperatives into communes back in 1958. In these communistic units, the diligent worker, the skilled, and the lazy were all paid, not according to their ability or output, but according to their needs, a basic tenet of Marxism. It resulted in complete, if grim, equality for the serfs, while the influential Party members or highly skilled citizens lived in comfort or even wealth. It also resulted a year later in nationwide starvation. The communes had failed!

"It was a common thing in the countryside," Wills told J. Robert Moskin in an interview for the book *Turncoat* (1966), "to find a baby lying at the side of the road – thrown away." It had died, and, helplessly, the parents had left it there, but make no mistake, they were not indifferent; they were bitter.

The desperate situation forced the Chinese officials to *reintroduce the incentive system,* an important aspect of *capitalism.* Workers were to be rewarded for special effort by monthly bonuses – extra food, extra clothing, extra allowances. In a bakery Wills visited in 1965, he learned the women wrapping candy were being paid *according to piece work!* How Karl Marx would have raged over such bourgeois retrogression! But, unhappily for the Chinese, Marx's theory ignored human nature. It is human to resent injustice. Paying the competent the same as the incompetent infuriates the able and causes them to despair. Seeing no future in their efforts, most cease striving. Any political theorist, of whatever leanings, had best take

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

into consideration this inescapable fact.

Housing Shortages in Russia

Despite Russia's fifty years of highly touted progress, it cannot adequately house its people. Almost half of Moscow's citizens still share kitchen and bath facilities with other families. In this so-called "laborer's paradise," the workers' requests for apartments get less consideration than do the requests of privileged Communist Party members.

Russia's astounding scientific and technical advances have been equaled or surpassed by other nations, nations that have not had to resort to political genocide and mass enslavement. Furthermore, the New Left ought to make a careful note that when President Richard M. Nixon made his famous visit to Russia as Vice President he found roughly *half* the machines in Novosibirsk's largest machine-tool plant were American made. Many of the rest bore German markings, proof that much of the Soviet's technical progress has been made through the efforts of the free enterprise system.

According to *Time* magazine's annual review in 1929, the International General Electric Company signed a twenty-five million dollar contract to electrify the Soviet Union. Other U. S. corporations agreed to build a 100-million dollar hydro-electric plant in the Ukraine, steel mills, coal mines, and tractor factories at Stalingrad. Ford sold the Russian government a complete automotive factory, installed and equipped. These are crucial facts, because current leftists too often dismiss the failure of socialism in China, Cuba, and Russia by saying these countries were not sufficiently industrialized for the changeover. They overlook or ignore Russia's utilization of the technical advances created by capitalism. Much of Russia's difficulty came from the resistance of the people. They grew less grain because of heavy taxes and the scarcity of goods. They slaughtered their cattle and uprooted their fruit trees rather than turn them over to the state. They burned their houses, thinking that soon they would get a brand new one from the government. During 1928, nine thousand homes were destroyed by fire in the Russian province of Samarra. Of these, one third, *three thousand,* were gutted because of arson.

Red Tape and Waste

Theoretically, socialism is supposed to be more efficient than capitalism due to state control and centralized planning. In practice, it isn't. It suffers from the same ills

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that plague our own huge, cumbersome, Federal bureaucracy. It is strangled by red tape. It suffers from wasteful duplication. Typical is the factory that received *seventy* different commands from *fifteen* overlapping, government bureaus. Since it isn't necessary to show a profit for a plant or factory to survive, gross inefficiency continues year after costly year. Unlike our own economy, however, there is no free enterprise system to support bureaucratic mismanagement.

The humor of the people is perhaps more revealing than are the periodic progress reports. One story tells of a leading Communist who died and was sent to hell. At the entrance, Satan offered him the choice of two gates, one marked "Capitalists," the other "Communists."

"I'll take the Communist hell, naturally," the Russian replied.

"Oh?" said Satan.

The Communist nodded cynically, then added, "Yes. There's bound to be a fuel shortage there."

As *Nation's Business* pointed out, if we wanted to match Russia's economy, we would have to: "tear down sixty per cent of our homes, demolish sixty per cent of our steel mills, rip up two thirds of our railroad tracks, destroy nine out of every ten telephones, and reduce our standard of living a full sixty per cent." Of course, in comparison to China and Cuba, Russia has indeed made giant strides. Mao and Castro have reduced the worker's lot to grim survival.

Government Doesn't Wither

Furthermore, the government that Karl Marx said would decrease in importance and disappear, remains as strong as ever. It has become entrenched by suppressing all dissent. Recently, seven Russians were imprisoned for merely complaining about the plight of the worker (*Facts on File,* November 26, 1969).

In Cuba, according to Dr. Lazo, a person cannot change his residence or transport so much as a chair or lamp to a new apartment without the knowledge and consent of the Committee for the Defense of the Revolution.

China, like Cuba and Russia, has found the most insidious instrument of tyranny is the informer. For awhile, Wills played poker with an American couple also working with the Chinese Communists until their children walked in to demand the gambling be stopped or the children themselves would report it.

Borrowing a device from Czar Nicholas I, the Soviet leaders have had many critics declared "demented" and placed in insane asyl-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ums. So, before we tear down our republic, perhaps we should decide: Do we want a system where the sane are caged and the mad allowed to rule?

Paper Promises

So long as socialism remained an untried theory, it was understandable that idealistic young men and women should be drawn to it. It promised much: more efficiency in the productive capacity of a country, equality for all, an end to depressions (such as the famines both the Soviets and the Chinese Communists have suffered), a fairer distribution of the goods, and — once the state had been abolished — a true democracy of the people.

The promises were *paper* promises. They have all failed to materialize. Today, the only explanation for the continuing dream of a Utopian Socialistic Society is lack of knowledge or a belief that by destroying the free world, there need be no atomic war. In view of the possible consequences, to remain ignorant is criminal negligence.

As for the fear of a world-wide holocaust, there is no guarantee that the internal destruction of America would end this awesome threat. Such a belief is naive and illogical, for if a socialistic China can split with a socialistic Russia, there is no reason to believe a socialistic America would fare any more harmoniously.

At a prominent Eastern university, the majority of young men who were polled agreed with the slogan, "Better Red than dead." But how many of these knew they were voting for slavery? Surely, if the real test comes, the majority of Americans will choose the words of Franklin Delano Roosevelt, as expressed in his third Inaugural, (January 20, 1941): "We, and all others who believe as deeply as we do, would rather die on our feet than live on our knees."

IDEAS ON LIBERTY

The Youth Movement

IN THE DECADE preceding the First World War Germany, the country most advanced on the path toward bureaucratic regimentation, witnessed the appearance of a phenomenon hitherto unheard of: the youth movement. Turbulent gangs of untidy boys and girls roamed the country, making much noise and shirking their school lessons. In bombastic words they announced the gospel of a golden age.

LUDWIG VON MISES, *Bureaucracy*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CLARENCE B. CARSON

THE FOUNDING OF THE AMERICAN REPUBLIC

18

The Bill of Rights

THE THRUST for a list of rights to be added to the Constitution gained momentum during the debates over ratification which took place in the states. No distinct statement of rights had been made a part of the Constitution, nor did it contain any systematic protection of those rights traditionally thought to be in especial need of defenses. To some few within the convention, and to a much larger number of those who were not there, the omission was a deficiency that must be corrected or the Constitution rejected. In retrospect, it appears strange that the men who sat in the convention should have neglected to supply something that was so universally considered essential by Americans and the absence of which so many would judge to be a fatal defect of their work. Among the reasons they did not were these: the leaders were focusing their efforts on getting a stronger general government, not upon restraining it; declarations of rights had not proved to be substantial deterrents to governments within the states; and, as some would argue, it was unnecessary to have such restrictions for a government possessing only enumerated powers. However good their

Dr. Carson, noted lecturer and author, is Chairman of the Department of History at Hillsdale College in Michigan. The articles of this series will be published as a book by Arlington House.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reasons might be, the omission ran counter to American tradition and the predilections of the bulk of the populace.

The belief in the necessity of a bill of rights went deeper than the *American* tradition, too. Britons traced their liberties to restraints on government. That was the lesson, Americans thought, of Magna Charta, of the Petition of Right, and of the Bill of Rights. That government should be restrained by documentary prohibitions was deeply ingrained in Americans with a British background.

Statements of rights, too, drew much force from natural law theory which underlay so much of American constitutional theory. The doctrine of natural rights not only held that man has certain rights in the nature of things but that government which is charged with protecting them tends, if not restrained, to invade and diminish them. The accepted means for introducing protections of such rights into practice was by way of distinct bills of rights. By natural law theory, they do not become rights because attention is called to them in fundamental instruments of government – they inhere in the nature of things; but many believed that there was greater likelihood of their being observed if they were written into fundamental law.

The example of the states appeared conclusive to many. If state governments which were much more closely dependent upon popular support had to be restrained, then how much more necessary would be restraints on a general government which was remote from the people both in physical distance and by the manner in which its branches were to be chosen.

Conventions proceeded state by state to the consideration of and debate over ratification following the submission of the Constitution to the states in September of 1787. The Constitution provided for ratification by conventions made up of delegates chosen by electorates within states. For it to go into effect, it was mandatory that two-thirds of the state conventions approve the Constitution. Approval required only a majority vote. Whether a state which failed to ratify would be excluded from the union was not stated in the Constitution, but presumably the state would have to take some kind of affirmative action to come into it. Most of the states acted with dispatch to hold elections followed in short order by conventions, but Rhode Island refused to hold a convention until 1790, and the North Carolina convention adjourned without acting on ratification in July of 1788.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"The Federalist"

The debates over ratification within the states have retained considerable historical interest. Perhaps the most important reason for this is that during these debates a thorough examination and exposition of the principles of the Constitution took place. Its strengths, weaknesses, and nature were thoroughly explored. The greatest brief in support of the Constitution was *The Federalist*, a book which was first published as newspaper articles for the express purpose of getting New York to ratify the Constitution. The articles were published under pseudonyms, but the bulk of them have since been attributed to Alexander Hamilton, a goodly number of the others to James Madison, and a few to John Jay. They are generally considered to be the most authoritative exposition of the original Constitution, despite the fact that they must have been composed in considerable haste for a specific occasion. Their success is a tribute not only to the brilliance of Hamilton and Madison particularly but also to the superiority of the analytical tools and rhetoric of an age. Though papers in opposition to ratification were published in a losing cause, some highly perceptive ones were brought forth; of these the most important were by George Mason, Richard Henry Lee, and Elbridge Gerry. In several of the conventions, spirited and lengthy debates took place. The debates in the Virginia convention were the most thorough, as befitted the leading state in America, followed by those in Massachusetts and New York.

Loopholes Feared

The other matter to come out of the debates to make them lastingly important was the demand for, promise of, and eventual adoption of a Bill of Rights. There were many objections raised to the Constitution in the debates. Some saw it as establishing a general government of such powers that as they were augmented over the years would tend to extinguish the independence of the states. The powers of the President were much too great, critics declared, and since there was no barrier to reelection, he might become, in effect, a ruler for life. The Senate, too, came in for much criticism, since it was remote from the people, the terms of its members were long, and its powers were intertwined with those of the President. Hardly a phrase or idea or provision of the Constitution that did not somewhere by somebody come under biting criticism. Even the phrase, "We the people," in the preamble was found to be offensive: reference should have been

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to the states rather than the people, they thought. Much of the criticism was frivolous, some of it was entirely off the mark, and part of it was arrived at by simply misconstruing what was provided in the Constitution. The heart of the criticism, however, was that a government was being set up unrestrained by sufficient protections of traditional and natural rights. Until this deficiency should be made up, there were a great many who simply could not accept the Constitution.

Hamilton's Ingenious Argument

Alexander Hamilton attempted to make as full answer as could be made to the proponents of a bill of rights in *The Federalist* number 84. He noted, first of all, that certain rights were protected within the Constitution, such as the right to a writ of *habeas corpus*, to trial by jury, and so forth. So far as particular bills of rights are concerned, he pointed out that they were, in their inception, instruments to restrain monarchs, hence, of doubtful appropriateness in a republic. Perhaps the most ingenious part of his argument is contained in the following, however:

> I go further and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution but would even be dangerous. They would contain various exceptions to powers which are not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power . . . This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.[1]

Patrick Henry probably made as good answer to Hamilton as could be made when he spoke on the subject in the Virginia convention:

> Mr. Chairman, [he said] the necessity of a bill of rights appears to me to be greater in this government than ever it was in any government before. I have observed already, that the sense of the European nations, and particularly of Great Britain, is against the construction of rights being retained which are not expressly relinquished. I repeat, that all nations have adopted this construction – that all rights not expressly and unequivocally reserved to the people are impliedly and incidentally relinquished

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to rulers, as necessarily inseparable from the delegated powers. It is so in Great Britain; for every possible right, which is not reserved to the people by some express provision or compact, is within the king's prerogative . . . It is so in Spain, Germany, and other parts of the world.

Demand for Specific Limitations

Whatever the merits of the arguments on either side, feeling was strong for a bill of rights and opposition was great to a Constitution which did not contain one specifically. As one recent account says, many were "sincere in deploring the failure of the Constitution to defend basic freedoms in so many words. At worst these prohibitions would do no harm, and might be expected to work much safety. America had recently, in the Revolution, freed itself from certain concrete oppressions by a distant government, and these should not be allowed to creep in again by any eventuality."[2] Richard Henry Lee penned a poignant plea for just this during the debates:

> . . . Fortunate it is for the body of a people, if they can continue attentive to their liberties, long enough to erect for them a temple, and constitutional barriers for their permanent security: when they are well fixed between the powers of the rulers and the rights of the people, they become visible boundaries, constantly seen by all, and any transgression of them is immediately discovered: they serve as sentinels for the people at all times, and especially in those unavoidable intervals of inattention.[3]

Indeed, so strong was the sentiment for some sort of bill of rights that the Constitution received ratification in several crucial states only after the promise that one would be added.

Broad Support for Constitution Despite Criticism

Though the debates over ratification of the Constitution do provide valuable insights into it – and opponents did make some telling points – it is easy to make too much of them. Some twentieth-century historians have alleged that the Constitution was unpopular, that its ratification was accomplished by underhanded maneuvers, and that had a larger electorate been consulted it might not have been adopted. This is not only speculative but also argumentative, for it assumes that uninformed opinions should be given equal weight with the opinions of those who had studied the questions carefully. In fact, in most places the Constitution had the support of the bulk of men of learning and substance as well as most of the leading characters in the country. Most of the more

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

thoughtful opponents of ratification of the Constitution as it stood were by no means wholehearted in their opposition.

Besides, the vote in favor of ratification in most states was not close. Delaware ratified the Constitution December 7, 1787, by a vote of 30-0; Pennsylvania followed on December 12, by a vote of 46-23; New Jersey was unanimous for ratification a few days later, 39-0; Georgia unanimous on January 2, 1788, 26-0; Connecticut overwhelmingly approved, 128-40, on January 9. The vote was close in Massachusetts, 187-168, but ratification was achieved on February 16. The Maryland vote in favor of ratification was not even close; it was 63-11, despite the fact that several Maryland delegates to the Constitutional Convention at Philadelphia opposed it. Those in favor of ratification in South Carolina won handily, 149-73, on May 23; New Hampshire followed on June 21, 57-47. Nine states had now ratified it, and the Constitution could be put into effect. But the chances of succeeding without Virginia and New York were slim. Attention now focused on their conventions.

The Debate in Virginia

In the Virginia convention which met for most of June, both sides were most reluctant to take a vote for fear of losing. This was one of the reasons the debates were so prolonged and the examination of the Constitution so thorough. James Madison was the leading exponent of the Constitution, ably assisted by John Marshall among others. Patrick Henry was the most tenacious opponent of ratification. When the vote was finally taken, it was 89 to 79 for ratification. The New York vote was even closer; that state ratified the Constitution by a vote of 30-27 on July 26. Thereafter, Americans turned to the task of organizing and getting the new government underway. North Carolina finally ratified the Constitution in November 1789 by a vote of 194-77. With all the other states in, and under the threat of a boycott, Rhode Island finally held a convention in 1790 which proceeded to the ratification of the Constitution by the narrowest possible margin, 34-32.[4] There were some close votes, then, but the composite picture is one of widespread willingness to try the new Constitution and almost universal acceptance of it when it had been amended. The fact that opposition dwindled into insignificance once it was ratified shows the limited nature of that opposition; the opponents could accept its adoption as a condition of political life which they found tolerable. The

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

main questions about the Constitution now concerned how it should be amended and interpreted.

Of course, the opposition did not melt away until the Bill of Rights was made a part of the Constitution. Moreover, North Carolina's (and probably Rhode Island's) ratification of the Constitution was given impetus by the fact that such amendments were in the process of being adopted. Thus, while other things of great moment for the founding of the American Republic were taking place between 1788 and 1791, it is appropriate to complete at this point the discussion of the Bill of Rights.

Madison's Role

Whether James Madison was the Father of the Constitution may remain debatable, but that he was the Father of the Bill of Rights is as near indisputable as such things can be. He examined the proposals as they had come from the state conventions, pondered the question of what rights were generally in greatest need of protection, and as a member of the first House of Representatives kept bringing the matter up until the House consented to act. Moreover, Madison served on the committee which brought forth the proposals as well as on the joint House-Senate committee which worked out the final form of the amendments. There were suggestions at the time that he was less than enthusiastic about a bill of rights – as well as suggestions since that he deliberately made them vague and imprecise –, but the record shows him working diligently to get something done when many of those who had been called Federalists were dragging their feet and some of the anti-Federalists were more inclined to niggling criticism than to working toward what could be achieved. Madison did oppose going into intricacies in the amendments; let us, he said, "confine ourselves to an enumeration of simple, acknowledged principles," for by doing so, "ratification will meet with but little difficulty."[5] Surely this was wise counsel.

A Happy Choice

Two pitfalls were avoided by the manner in which the Bill of Rights was made a part of the Constitution. It was passed by two-thirds majorities in the House and Senate and ratified by legislatures of the states, with concurrence by three-fourths of the states being necessary for adoption. The method used was one of amendment rather than of inserting these protections of rights within the body of the original Constitution. The first pitfall would have

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

been the calling of another constitutional convention to produce a bill of rights. Those who wanted to get on with establishing a general government were most desirous of avoiding any such gathering, for it would most likely get out of hand and proceed to the undoing of the work of the first convention. To have the amendments advanced by Congress not only avoided that danger but also utilized the legislative branch of the new government in one of its more important functions, thus enhancing the prestige of the new government. Madison had at first thought that protections of rights should be placed within the original Constitution, but the House decided that they should be added as amendments. This, too, was a happy decision, for it avoided the spectacle of Congress tampering with the Constitution and setting the precedent for its being rewritten from time to time by the legisture.

The Bill of Rights was submitted to the states in September of 1789 and acquired a sufficient number of state votes of approval to go into effect in December of 1791. Twelve amendments were submitted, but two were not approved. The first of the two dealt with apportioning representatives in the House and would have fitted poorly in a bill of rights. The second laid down rules about determining the pay of members of Congress and would have been equally ill-placed at the head of an enumeration of rights and privileges. Madison had hoped to include an amendment which would have restricted the states as well as the general government from violating basic rights, but this proposal was turned down in the Senate.

A Bill of Prohibitions

The first ten amendments to the Constitution contain a list of restrictions, some specific, others more general, on the United States government. It would not be incorrect to call them a Bill of Prohibitions instead of a Bill of Rights, for they are in the nature of prohibitions. They are not so much a list of rights as they are a series of protections of rights. The phraseology is generally negative: "Congress shall make no law," "the right of the people to keep and bear Arms, shall not be infringed," "no Warrants shall issue," "No person shall be held," "no fact tried by a jury shall be otherwise re-examined," "Excessive bail shall not be required," "shall not be construed," and "powers not delegated."

The meaning of this negative formulation and restrictive character can be succinctly stated. Some constitutions have contained

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

declarations of rights which were more or less extensive lists of the rights supposed to belong to the people. Such lists tend to be ineffective and to amount to little more than pious wishes of those who state them. If one has a right, who is it against, and how is it to be enforced? For example, suppose it be declared that the people have the right to free speech. This is a noble sentiment, but unless there is a prohibition against someone who would violate it, it is of no use. Moreover, even if such a general right were enforced, it might well be done so as to limit someone else's speech.

Fear of Government

The Founders were generally of the opinion that once law and order had been established the greatest danger to rights came from government itself. The movement for a bill of rights to be added to the United States Constitution came specifically from those who feared that the government it established would violate them. For example, Richard Henry Lee was involved in the debates in the Senate over whether a bill of rights was necessary. Some said that they needed more experience to determine which and if amendments were necessary. Lee indicated in a letter that he thought there had been experience enough "to prove the propriety of those great principles of Civil liberty which the wisdom of the Ages has found to be necessary barriers against the encroachments of power in the hands of frail Man."[6] Wherever government power was lodged, there must be a variety of restrictions and limitations on its exercise if men's rights were to be protected; so thought most Americans of that day.

Specified Rights

The first two amendments deal with certain specified rights. The first reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." An established religion is one which is supported by government, i.e., by tax money, by requiring attendance, or other such aids and privileges. To say that Congress should make no law prohibiting the free exercise of religion would appear to mean that Congress should not concern itself with either prescribing or proscribing religious practices. (This prohibition did not extend to state governments, since they were left free to prescribe or proscribe religions, limited only by their own

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

constitutions.) The right to believe and practice any or no religion was usually described at the time as the "right of conscience." Free speech, free press, peaceful assembly, and the right to petition did not mean so much as one might suppose. The historical problem had been that those who governed had used such restrictions to prevent criticism of themselves or influences upon their actions. What the Founders were primarily, probably exclusively, interested in protecting was the right of the people to speak, write, assemble, or petition so that they might freely characterize, criticize, or influence those who governed them. It is most doubtful, for example, that they any more conceived of the right to a free press as a right to publish pornography than that they thought of the right to assemble as the right to intimidate. It is true, of course, that governments may restrict speech, the press, and assembly on other grounds than protecting those who govern from citicism and influence, but it is not clear what the incentive would be except for some public, as opposed to personal, reason. Be that as it may, the first amendment provides protections for several traditional rights generally most prized and often standing in need of protection.

The Right to Bear Arms: Argument for a Trained Militia

The second amendment is the most peculiarly phrased of all of them, and for that reason its import is somewhat obscure. It says, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The first two phrases are surely rhetorical flourishes rather than prohibitions on government. The only rights involved are those of keeping and bearing arms. There is no mystery about the right to keep arms; it means simply the right to store them on one's property. The right to bear arms is subject to two interpretations. It might mean simply the right to carry them about from place to place. But in the context of the opening phrases, it might mean also the right to serve in the militia. The larger purpose of the amendment appears to have been to tip the scales in favor of citizen armies. Few things were more feared at the time than armies composed of foreign mercenaries. Indeed, standing armies from whatever source were considered a grave danger. A government with these at its disposal could go far to impose its will on the people, as had occurred at many times in the past. The suggestion of the amendment, per-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

haps it should be called a hint, is that the military force should be assembled from part-time soldiers who composed the militia. The effectiveness of the militia would be greatly enhanced, they thought, if its members were practiced in the use of firearms. This would be greatly facilitated if they were permitted to keep as well as to bear arms. Arms in the hands of the citizenry would also be a safeguard against either foreign mercenaries or standing armies.

A Man's Home Is His Castle

Amendments three and four deal with both rights and procedures. The primary right involved is the right to the use of one's home in privacy and security. "A man's home is his castle" is an ancient saying, and these amendments were aimed to make this so as against the United States government. The third amendment prohibits the quartering of soldiers in private houses, in time of peace without the consent of the owner, and in time of war only according to rules laid down by law. The fourth deals with searches and seizures and prescribes the procedures by which they may be done.

Amendments five through eight are concerned almost entirely with processes by which government may take life, liberty, and property. They constitute resrictions which government is supposed to observe when it is going about the business of taking one or more of these from a person. It may appear ironic that a government which is supposed to protect life, liberty, and property may also take these on occasion. Yet, it has been the considered judgment of most men through the ages that governments must take one or more of these from persons from time to time in order to protect the life, liberty, and property of the generality of people. It was also the view of the Founders that these are dread actions which must be hedged about with procedures and prohibitions to assure that men are not casually deprived. Article V declares, in part, that no person shall be "deprived of life, liberty, or property without due process of law." Most of these processes are set forth in amendments five through eight, such as, trial by jury, indictment by a grand jury, compulsory processes for obtaining witnesses by the accused, and the right to counsel.

To Protect the Innocent

The courts exist, however, to settle disputes and to discover and punish malefactors. The primary purpose of the criminal courts is to protect the life, liberty, and property of peaceful persons by

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

dealing sternly with those who violate them. They do not exist for the purpose of protecting criminals; if this were their purpose, it is doubtful that society would be sufficiently concerned to establish courts. Those who attend only to the Bill of Rights might suppose that our constitution-makers were concerned only with the rights of the accused. They were not, of course; the basic business of government and of the courts was assumed – so apparent as hardly to be worth stating –, whereas, the supplementary matter of protecting the accused and the criminal was considered worthy of concentrated attention.

Umbrella of Protection

The ninth and tenth amendments provide the general protections of rights; they were drawn as an umbrella over the whole to protect the individual and the states from encroachment by the general government. The ninth specifies that "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." Opponents of a bill of rights had pointed out that it would be impossible to spell out all the rights which men might justly claim. The listing of a few of them might set up the presumption that those not listed did not belong to men as rights. This article was intended to make it as clear as could be that all manner of rights still belonged to the people, though no mention was made of them in the listing.

The tenth amendment puts the roof on the edifice, so to speak. It proclaims that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The language derives its impact from the natural law philosophy. On this view, rights belong to individuals in the nature of things. The powers of government are justly derived from the people, and since these governmental powers place some limit on individual rights they must be acquired by delegation (or by usurpation, which would be unjust, of course). The powers not delegated, then, whether it be to the general government or to the states, are reserved.

Room for Flexibility

There were those who would have attached the modifier "specifically" to "delegated," but they were defeated in their efforts to do so. This raised the specter of endless wrangling over whether the power to perform acts in order to exercise the powers delegated had been granted or not. More

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

deeply, the inclusion of the modifier would have posed the problem whether this government could exercise powers that are said to be inherent in government or not. Perhaps there was no need to retain the notion of powers inherent in government, but men who have just been engaged in the business of drawing up a constitution may be forgiven for being uncertain as to whether they had covered the whole ground or not. They might have, for aught they knew, failed to grant powers specifically which would shortly be necessary to the performance of functions which they had readily conceived. At any rate, the tenth amendment can be accurately construed as restrictive – that is surely its purpose – but not as confining as it would be if "specifically" were added to it.

A Unique Position

Any amendment to the Constitution occupies a unique position in the American system. It supersedes anything preceding it which is contrary to it; that is, it becomes the governing article in the matters with which it deals. The first ten amendments, however, occupy an even more prominent place in the Constitution than their position as amendments would perforce give them. They were conceived as and quickly became known as the Bill of Rights. They were thought of, in part, as taking their place alongside Magna Charta, the Petition of Rights, and the British Bill of Rights. But the American Bill of Rights is significantly different from and more than these great British guarantors of the rights of Englishmen. For the British bethought themselves only to guarantee themselves against encroachment by the monarch. Whereas, the American Bill of Rights draws a line between the whole government and the citizenry which the government is not to transgress. In doing this, it differs somewhat from the original Constitution. That instrument generally grants and restricts powers in terms of branches. This mode was continued in the first amendment, then abandoned in the rest, so they may be interpreted as restraining the whole Federal government. The American Bill of Rights is informed by the idea that it is not just the executive, not only the courts, but also the legislature that must be restrained. Government itself – in all its branches and so far as it may reach – is a potential threat to the people under it. If they are to be secure in their rights, if they are to enjoy their lives and possessions, that government over them must be kept to its appointed tasks and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

observe the procedures prescribed for it.

The adoption of the Bill of Rights reconciled most of the opponents of the Constitution to the new government. With it as a bulwark of defense against consolidated government, all the states could come into the union. The Bill of Rights did not yet reach through to all the inhabitants of the United States, but the provisions were such that all could desire to be covered by them.

• FOOTNOTES •

1 Alexander Hamilton, et. al., *The Federalist Papers* (New Rochelle: Arlington House, n.d.), pp. 513-14.

2 Broadus and Louise Mitchell, *A Biography of the Constitution* (New York: Oxford University Press, 1964), p. 189.

3 Forrest McDonald, intro., *Empire and Nation* (Englewood Cliffs: Prentice-Hall, 1962), pp. 134-35.

4 See Merrill Jensen, *The Making of the American Constitution* (Princeton: D. Van Nostrand, 1964), pp. 141-46.

5 Mitchell and Mitchell, *op. cit.*, p. 196.

6 Quoted in Robert A. Rutland, *The Birth of the Bill of Rights* (New York: Collier Books, 1962), p. 215.

Next: Establishing the Government.

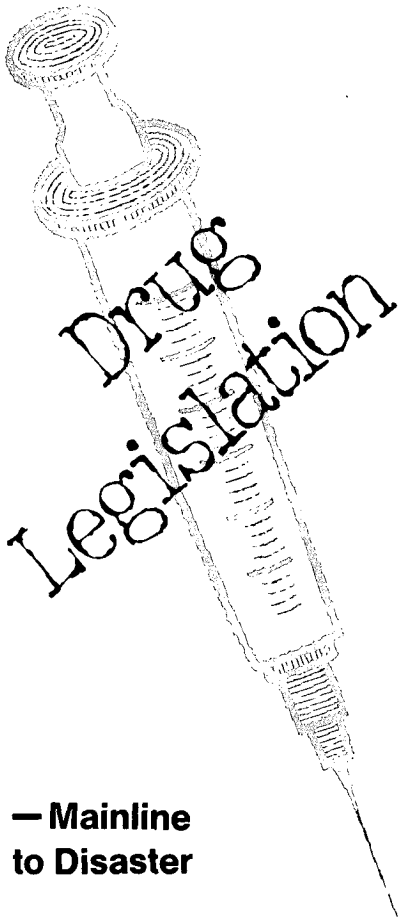
IDEAS ON LIBERTY

Government of the People

GOVERNMENT, as has been before observed, is in the very nature of it a Trust; and all its powers a Delegation for gaining particular ends. This trust may be misapplied and abused. It may be employed to defeat the very ends for which it was instituted; and to subvert the very rights which it ought to protect. . . . Nothing, then, can be more absurd than a doctrine which some have taught, with respect to the omnipotence of parliaments. They possess no power beyond the limits of the trust for the execution of which they were formed. If they contradict this trust, they betray their constituents, and dissolve themselves. All delegated power must be subordinate and limited. If omnipotence can, with any sense, be ascribed to a legislature, it must be lodged where all legislative authority originates; that is, in the PEOPLE. For *their* sakes government is instituted; and theirs is the only real omnipotence.

RICHARD PRICE
Observations on the Nature of Civil Liberty, 1776.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED



—Mainline to Disaster

ROBERT PATTON

IN THE LONG-STANDING debate over the question of drug legislation in the United States, two major and opposite positions stand out. There are those who call for immediate legalization of marijuana. Some would go so far as to lift the ban on all drugs including heroin and other so-called "hard" narcotics as well. Others decry what they see as a breakdown in moral order and vehemently oppose any letup in the government's war against the manufacture, sale, and use of illegal drugs. They frequently point to the high incidence of drug-related crime – particularly in major population centers such as New York City – as a major argument for their case against drugs.

There can be no argument against the obvious fact that such crime is on the rise. The problem has reached such proportions that law enforcement officials frequently point with pride to a decrease in the *rate of increase* of violent crimes against persons and property in a given year. And the connection between drug addiction and crimes against persons and property is well documented. To sustain a $50 per day narcotics habit, the addict needs resources, which may lead him to

Mr. Patton is a graduate student and part-time lecturer in physics at Hunter College in New York City.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

steal enormous amounts of property ranging to $2500 or more *each week!*

Few would argue with the assertion that the widespread use of drugs is detrimental in the extreme both to the unfortunates who have become dependent upon them and to others who pay a bitter price in property loss, personal injury, and the debilitating fear that oppresses those who dwell in our once great cities. The very foundations of our social order would appear to be threatened by this pernicious epidemic that rages unchecked through our midst. Most pitiful is the fact that the primary victims of narcotics addiction are the young – those in whose hands our future rests.

Hunting the Villains

Human nature being what it is, it is perhaps not surprising that our first instinct is to seek the villains that are responsible for our affliction. And find them we do. We find them in the persons of popular singers who, allegorically or directly, extol the virtues of drugs in their songs, in the pushers who prowl our streets, campuses, and even playgrounds. And we find them in the specter of organized crime, the syndicate, the international narcotics czars.

The answers seem obvious. Crack down on the street pusher. Guard the borders. Impose economic sanctions on the countries of origin. Clean up our films, our books, our records. Use the powers of the Federal Communications Commission to deprive the apostles of drugs of the podium from which they transmit their message of doom to our nation's youth.

But many of these answers have been tried to one degree or another, whereas the problem grows at an accelerated pace. Why? Again the obvious answers. Soft judges. Corrupt police. Lax customs agents. Spineless do-gooders in government. Get tough – declare all-out war on narcotics – and the problem will be solved.

Unfortunately, we are all too slow to learn from our mistakes. We have, after all, trod this path once before, in the twenties, the era of bathtub gin, the speakeasy, and the St. Valentine's Day massacre. The conclusions that can be drawn from our nation's experience with alcohol prohibition are painfully obvious. Contrary to the desires of our undoubtedly well-intentioned legislators, the net effect of the Eighteenth Amendment was to increase the use of hard liquor in the nation; the effect of repeal was to decrease it, although never to its pre-Prohibition level.

This argument, of course, has

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

been raised before and the usual reply is that hard narcotics such as heroin are incomparably more dangerous to the individual and to society than alcohol. It is further argued that, in attempting to eliminate the use of alcohol, prohibition was doomed to failure because alcoholic beverages are part of our Western cultural tradition.

Half-Truths

These arguments are both true and dangerously misleading. Certainly, heroin is far more dangerous in its effects than alcohol. But if the parallel we have been drawing between Prohibition and present drug legislation is valid then there is all the more reason to believe that the net effect of drug prohibition will be infinitely more pernicious than alcohol prohibition proved to be. Furthermore, while narcotic use is not yet a part of our Western tradition, there is every reason to believe it is fast becoming so and that drug prohibition is largely responsible. Let us not forget that many of the folk heroes of our Revolution, such as John Hancock, were smugglers who openly defied the authority of the British crown. Can anyone deny that within an increasingly large segment of our nation's youth – men of the same age as those who defied the rule of force at Lexington and Concord – there is much the same regard for those who defy our drug laws as there was for the Hancocks during our beginnings as a free and independent people.

It is ironic that the strongest support for the enforcement approach to the drug problem tends to come from the ranks of political conservatives. For it is from conservative economic theories that the most devastating argument against drug control through legislation can be made: the argument that the only effective control of harmful drugs is that imposed by the untrammeled operation of the free market. In such a market the will of the consumer, as expressed through the mechanism of price, reigns supreme.

They Prey on the Young

The biggest villain in today's drug picture is the unscrupulous pusher whose prey are the young people on our college campuses, schoolyards, and playgrounds. Those that become his customers may eventually have narcotics habits that cost as much as $500 per week to support. For the vast majority of addicts, to support such a habit by honest labor is impossible. And so the addict enters a twilight world in which long periods of driving need are punctuated by moments of incapacitating euphoria. He lives from fix

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to fix; nothing else matters. To get that next fix he will lie, cheat, steal or even kill if necessary. No wonder then that some 60 to 80 per cent of all crimes against property are committed by narcotics addicts. Yet, these crimes are committed to supply a habit that, in the absence of restrictive drug legislation would cost no more to maintain than the habit of a heavy cigarette smoker. How many tobacco merchants do we find haunting elementary school playgrounds to entice youngsters into smoking their first cigarette? The very suggestion is ludicrous. Why? Simply because the profits on the sale of cigarettes do not supply sufficient incentive.

Thus the very actions of government that are intended to curb the use and sale of dangerous narcotics act instead to line the coffers of organized crime. Suppose the all-out war against narcotics that many call for were actually initiated. Forgetting the inevitable corruption in the ranks of those who would be called upon to fight this crusade, let us assume that the government succeeds in totally shutting off *all* of the present sources of narcotics. What would be the immediate consequences of such a program?

The addict, thus deprived of his usual source of supply would be driven to the point of desperation. Burglaries and robberies of pharmacies and doctor's offices would likely reach record heights. What small supplies of narcotics remained on the streets would change hands at fantastically inflated prices. Those who could not pay these prices would either steal drugs or do without. But an addict cannot "do without" drugs in the same way that one can do without a new shirt or a pair of shoes. The vast armies of addicts who were left without the psychological crutch that their habit provides would represent an enormous potential market for anyone who could supply their need. The precise way in which that need would be filled cannot be predicted. That it would be filled is a certainty.

Market Principles

The principles that apply here are identical with those that apply to any market situation. Economic law knows no moral code. When the demand for any commodity outruns the supply, the price of that commodity will inevitably rise. At the present time, the "market" price for heroin at the level of the street dealer is more than one hundred times the cost of manufacture. The reason is plain. The manufacture, sale, and distribution of heroin is a high-risk venture. The action of government, and nothing else, is responsible

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for the high price levels that now prevail. The "all-out war" that we are discussing would further raise these prices in proportion to the intensity of the crackdown. The illegal drug market is subject to the very same principles of economics that apply when the issue is price control or minimum wage legislation.

On September 21, 1970, the Federal government initiated a crackdown on the illegal drug traffic across the Mexican border. Operation Intercept, as it was called, was an unqualified success; the *New York Times Encyclopedic Almanac* for 1970 calls it "the largest civil search and seizure operation ever conducted in peacetime." A virtual army of radar-equipped patrol boats and search planes slowed the immense flow of narcotics (chiefly marijuana) into this country from Mexico to a dribble. The result? One month later, on October 22, a joint legislative committee of Congress heard testimony that heroin use among New York City youngsters had jumped alarmingly. By drying up the supply of marijuana, Operation Intercept had raised street prices to the point that heroin became competitive with it.

The inevitable consequences of the enforcement approach to narcotics has been stated most succinctly by Peter Drucker writing in *Saturday Review* of May 13, 1972:

> Paradoxically, every "victory" in the "war against narcotics" increases the profitability of this trade and soon creates new pushers, more addicts, and bigger profits. When the narcotics agents "smash a drug ring" and confiscate 50 kilograms of heroin, the drug temporarily becomes scarce around Manhattan, in downtown San Francisco, or on Harvard Square. The price goes up – and with it the profit for the drug rings whose sources of supply are still intact. Addicts become more desperate. Crime and violence – and with them, fear – rise more sharply. More people are lured by their own need and by the high profits into becoming peddlers and pushers, producing still more addicts.

But this has been perhaps a bit one-sided. What of the government's point of view? What do the officials charged with "curbing the drug traffic" have to say? Interviewed by *U.S. News & World Report* in their September 25, 1972 issue, Nelson G. Gross, Senior Adviser, International Narcotics Matters, Department of State, was asked if progress had been made in stopping the illegal importation of heroin. Responding in the affirmative, Mr. Gross described the tangible results of an eighteen-month government crackdown on the international drug traffic: "The availability of heroin on the streets is less than it was a year ago. The

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

quality is not as good. The wholesale price is higher, and the retail price – which is what addicts pay – is higher." Later in the same interview, Gross indicates that he is aware of a second major consequence of the crackdown as he points out that ". . . those engaged in the drug traffic are turning to other sources of supply, and new routes are being developed to keep the flow of heroin coming to the U.S."

Gross also refers to the growing traffic in low grade, Mexican "brown" heroin. "There has not been an appreciable amount of brown heroin used within our borders," he observes, "although increasing supplies are beginning to appear *as a result of the East Coast shortage of heroin.*" [italics added]

Incredibly, there is no disagreement between Gross and Drucker as to the consequences of strict enforcement of drug prohibition.

Methadone Addiction

The current methadone controversy is a second case in point. Methadone is a synthetic drug that, taken in appropriate doses, can satisfy the heroin addict's craving and prevent the appearance of withdrawal symptoms without inducing euphoria. Dosages above this "appropriate" level, however, *are* intoxicating. Since 1964 various clinical programs have been instituted in which methadone is administered regularly to heroin addicts to enable them to live near normal lives, to hold down regular jobs and so on. According to the August 11, 1972, issue of the prestigious journal, *Science*, 50,000 heroin addicts presently are enrolled in such clinical methadone "maintenance" programs in the U.S. Discussing new regulations proposed by the Food and Drug Administration, *Science* reports:

> The new guidelines basically recognize methadone as a safe and effective drug, but surround its use with restrictions aimed at curbing a black market that has been spreading at an alarming rate . . . Doctors through carelessness or ignorance, have dispensed prescriptions for methadone tablets that are promptly sold for up to $10 apiece so that the "patient" can buy more heroin.

Who could be paying $10 for a drug that is dispensed free to heroin addicts? There are only two possibilities. Black market methadone is being sold both to heroin addicts enrolled in methadone programs who wish to increase their intake of the drug to a level that allows them the euphoric escape from reality they crave, and to primary methadone users – individuals addicted to or

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

becoming addicted to methadone itself. An ironic but likely possibility is that individuals may be using methadone in the mistaken belief that, since it is dispensed by the government, it must not be harmful.

In methadone we have a commodity that is in demand – either actually or potentially – and it should come as no surprise that a market has developed around it.

What we must realize is that certain men have existed in every society by pandering to the weaknesses and vices of their fellows. Their *modus operandi* is diabolically simple. Find a commodity or service for which there is a market, have government outlaw it, then move in and reap the rich financial rewards made possible by the artificially high price levels maintained by the government restrictions on the product. Not only is this technique profitable, it is relatively safe; for the greater the force with which government attempts to destroy such a market, the higher the price levels and the profits attendant on those prices. And the higher the profits, the more police officials, customs agents, and judges can be "bought" by the syndicate. Crackdowns initiated in response to public pressure will inevitably fall heaviest on the small operators, while the financiers and organizers sit tight in their penthouses until the heat is off once again.

The British Experience

Those that oppose the liberalization or repeal of our present drug laws often point to the "failure" of such an approach as in Great Britain. For many years narcotic drugs were available to British addicts by prescription. Then, in response to statistical indications that drug use was on the rise, the government clamped down. The conclusion drawn from this is that any letup in the government's war on narcotics mandates a rise in the use of hard drugs. Several important points are overlooked by such a conclusion. First, although drug addiction undeniably increased in Britain during those years of limited restrictions, it never reached the epidemic proportions that it has in this country. Furthermore, a large part of that increase – perhaps the greater part – can be attributed to the large numbers of American addicts that emigrated to Britain so they could supply their habit without being driven to criminal acts. And that leads to a most important point: addiction in Britain has never been associated with crime to the extent that it is here. This, in fact, is the justification given for the methadone programs discussed earlier. An addict in a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

methadone program is as much an addict as the heroin addict in the street; no one has ever claimed for methadone maintenance the status of a cure. The difference is simply and only that the methadone patient need not steal to support his habit. Ironically, this is the central point raised by many "liberals" in *attacking* the methadone programs. Their argument, as stated in the *Science* article quoted above, is "that it is a sinister form of social control in that its only purpose is to cut down on addict-related crime."

The principal opposition to liberalization or repeal of present drug laws comes from those who fear that this would be a significant step in what they view as a general breakdown in the moral fiber of our society. That this breakdown is all too real is undeniable, but the contention that so-called permissivity is the root cause of the problem is moot. Is it not, rather, that we have created a society in which the natural consequences of immoral or amoral behavior are not allowed to operate? It is not the intelligence or industriousness of the purveyor of hard drugs that makes it possible for him to sport $200 suits and drive $8000 automobiles. It is the action of government that has created his monopoly business.

If it were true that "permissivity" were the root cause of breakdowns in the moral order of society, then Soviet Russia or Communist China would be the examples to emulate in today's world. In these countries, morality is rigidly enforced by state edict. The State defines morality and harshly punishes transgressions against it. Now, many of us object to the particular moral code that is imposed on the Russian and Chinese peoples. Does this mean that if a tyrant's edicts were based on the "right" morality, that they would be any the less tyrannical? It is obvious that they would not. The very concept of morality is meaningless in any context in which the individual is not free to choose to act immorally. Certainly, any viable society must protect itself against those who would use force to violate the rights of others. It does not follow, however, that it is either desirable or proper that any government impose its idea of the good on its citizens. If we wish a society in which people behave honestly and self-reliantly, we cannot achieve it by force. Rather, let us create a social order in which virtue is its own reward.

A Perverted Order

What we have created in this century is the antithesis of such an order. We live in a world in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which sloth is rewarded and individuals are protected, by government, from the natural consequences of their own immoral acts. At least, such is the professed intention of those who create governmental policy today. An individual does not wish to work? It is the responsibility of others to see that he is fed. An individual is careless with his life on the highway? Let us insulate all drivers from the consequences of carelessness and ineptitude with belts, airbags, helmets, and padding. An individual chooses to destroy his mind and body with narcotic drugs? Take away the drugs and, failing that, incarcerate or commit him for "his own good."

If such policies did in fact lead to material prosperity, increased highway safety, and a decrease in the ranks of those whose minds and bodies are rotted away by narcotic drugs, they would still be abhorrent to anyone who valued freedom. The truth, however, is that they do no such thing. Instead, they foster the very problems they are designed to solve. The zombies who stalk our city streets in search of their next victim and their next fix are not a problem for government to solve but, rather, one more problem that government has created. And governments' prescribed cure is a more virulent dose of the dread disease itself.

A Place to Draw the Line

IDEAS ON LIBERTY

THE GOVERNMENT tried to "protect" people from the ill effects of alcoholic beverages during 1918 to 1933 with notable lack of success. Their efforts not only failed in their stated purpose but in the process spawned the growth of an organized underworld that is with us today, encouraged corruption of public officials, and taught a general disrespect for the law that still plagues us.

The government's efforts to outlaw gambling have had the same dismal results. So have the government's efforts to prevent citizens from reading pornographic literature, or to regulate sex relations between consenting adults.

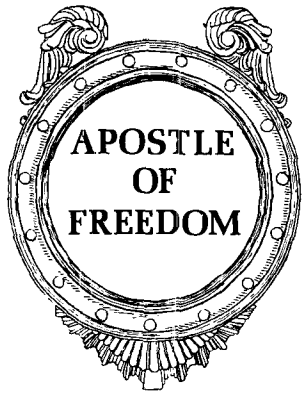
If any citizen wishes to engage in activities that are dangerous, considered immoral or frowned upon – which do not hurt anybody else – he should be free to do so.

Let's draw the line for freedom and keep the government behind it. Let's not pass any more laws to reduce our freedom by "protecting" us from our own actions.

B. V. BROOKS, JR., *The Westport News* (Connecticut) August 25, 1972

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Herbert Spencer: APOSTLE OF FREEDOM



RONALD F. COONEY

LIKE ANY ERA one would care to mention, the last half of the Nineteenth Century offered a fair field for the votaries of Statism. The evil effects of the Industrial Revolution, especially in the country of its origin, England, effects of long hours and little pay, of factories dangerous and unhealthful, of woman and child labor in those factories, of squalid industrial towns, of workmen reduced to the level of automatons, combined with ever-present ignorance, disease, and poverty to complete a picture of misery for much of the British population. The situation demanded a remedy. Then, as now, the agent of deliverance, the *deux ex machina*, was thought to be the State. England's ills were perceived not as the result of a natural and inevitable friction between a waning agricultural life and an emerging industrial life, not as the symptoms of a society in the throes of a profound and difficult transition, but rather as the wages of a political sin of omission. Correct that omission, it was said in effect, pass enough laws, the implicit argument ran, and human suffering would vanish.

Men of all political stripes, from the Liberal Gladstone to the Tory Disraeli succumbed to the pleasant vision of a nation where laws would provide the solution to every problem. The motives of these men were doubtless pure. They were decent men who were shocked at the conditions they saw and tried to relieve them. They were good men, but they were misguided men. They vastly overestimated the law's properties to

Mr. Cooney is a free-lance writer recently graduated from the University of Nevada.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

heal, to cure, to make right. Sadly, they could not foresee liberty, a delicate thing, being ground under the heel of an unrestricted State.

There were indeed few people willing to challenge the logic and correctness of their society's direction, and fewer still who realized its peril. The occasional cries raised in defense of individual freedom were drowned out in the clamor for more and ever more State intervention. Questions concerning the future of freedom under an accelerating State power were infrequently entertained, and more often than not completely ignored. Nonetheless, rare though the voices of liberty were, they did exist. Of those voices, the most tireless and influential was the great English philosopher, Herbert Spencer.

Darwin's Influence

Spencer, a contemporary and friend of Darwin, is best known to posterity as the thinker who based an entire philosophic system – his "Synthetic Philosophy" – upon the theory of evolution. Scarcely less significant, but far less well-known, are the contributions which he made to political thought, chiefly in the form of two books, *Social Statics* (1850), and *The Man vs. The State* (1884). For it was in those works that Spencer registered a vigorous dissent from the prevailing dogma and expressed his deep and abiding antipathy – what he called his "profound aversion" – to the unchecked extension of State authority. And it was in those pages too that Spencer, in a lonely sixty year advocacy, championed the rights of the individual, laissez-faire, and a *classical* liberalism.

These several strains of Spencer's political faith are easily discerned throughout *Social Statics*, at once the more theoretical and more satisfying of the two books. Whereas *The Man vs. The State* elaborates on certain points raised in the earlier work, thus forming a kind of appendix to it, *Social Statics* presents the Spencerian view of government *in toto*. Its wide range encompasses speculations upon the origin and purpose of government, the nature and extent of individual rights, and the proper (and improper) functions of the State. The latter portions of the book, devoted to a discussion of such timely issues of the day as poor relief, national education, sanitation and health laws, regulation of commerce and currency, postal services, and State churches, seek to relate practical concerns to the theories and principles previously laid down.

The argument contained in *Social Statics*, and it can be said

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

without much fear of overstatement, Spencer's whole political philosophy, rests on the "law of equal freedom." The law reads: "Every man has freedom to all he wills provided he infringes not the equal freedom of any other man." In other words, a man has freedom to act so long as his actions remain within the boundaries set up by the corresponding equal freedom of all other men. Spencer notes what he feels will be the objections to the principle, namely either "that men have no rights," or "that they have unequal rights." The first assumption, Spencer says, leads to the doctrine that countenances absolute monarchy or a dictatorship, i.e., "might makes right." That men should have unequal claims to freedom, or rights in proportion to their "merits" Spencer also denies. No way exists for determining what is or is not a merit, and there is no authority for such a determination were it possible.

In a State of Nature

Here Spencer is speaking of man in a pre-social state where government as such has not yet been established. How and why government came into being is a question Spencer must answer before he can proceed to the all-important problem of the State's lawful and moral limits. Probably, Spencer thinks, the State originated in a single individual, superior in some way to the individuals around him. The superior person keeps (exactly how, Spencer does not say) the group or tribe together, and for this he is revered by the other members of the community. As civilization advances men begin to assert what they feel to be their rights, until they finally reach a state "under which their rights will be entire and inviolable." But why did men originally enter a social arrangement? Spencer answers thus:

> . . . they found it preferable to the isolated one; which means that they obtained a greater sum total of gratification under it; which means that it afforded them fuller exercise for their faculties; which means that it offered a safer guarantee for such exercise—more security for their claims to life and property; that is, for their rights.

If this is the reason for the formation of society, then the duties of the State should reflect it. If men entered the social state for the better protection of their lives, liberty, and property, then it is the function of government to act first as a police force against aggression from within and without, punishing criminal acts and defending the nation from foreign invasion, and second as an ad-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ministrator of justice, adjudicating the unavoidable conflicts that arise among imperfect human beings. The State creates no rights, but only the atmosphere wherein the citizen may exercise what rights he will without infringing the equal exercise of others.

The Law of Equal Freedom

The benefits issuing from the State's correct maintenance of security and justice, are, unlike the false "rights" that the State attempts to bestow, *indivisible*. That is to say, they are not granted to one segment of the population at the expense of another. They are, or should be, available to all. The degree to which they inhibit liberty is offset by the degree to which they make possible a climate where liberty can flourish. Finally, they are the only functions the State may undertake consistent with the law of equal freedom – the law of free men. And if the State endeavors to expand this limited sphere, if it essays to provide more than is necessary for the safety of the citizenry and the rights of the citizenry, it transgresses doubly, first against the law of equal freedom, and secondly against the purpose for which the State itself was established, the protection of freedom. For this reason is the law of equal freedom particularly valuable as a dictum of absolute justice and as a gauge for the rightness and wrongness of legislation.

Spencer vehemently denies that the State should interfere in commerce. An Adam Smith free-trader, he opposes any regulation of the market – whether in the form of "artificial stimuli or artificial restraints." The first, assuming the shape of bounties to encourage production, are wrong because they require more of the citizen's property than is needed to maintain his physical protection and his rights. "Artificial restraints" are likewise improper since they directly violate the individual's right of free exchange with other individuals.

Separation of Church and State

Neither may the State legitimately tax the people in order to set up a State-church. By doing so, Spencer believes, the State presupposes its own infallibility while simultaneously restricting the freedom of the individual to use his faculties. Furthermore, any disagreement with church doctrine would compel the State to outlaw and punish religious non-conformity, a fact which Spencer, the descendant of a long line of Dissenters, could appreciate.

Obviously the State may no more institute laws for the relief

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the poor than it may intervene in matters of trade or religion. Why? Because here again it infringes on individual freedom and exceeds its proper powers as the guardian of life, liberty, and property. Spencer recognizes and meets head on the argument which says that by providing aid to the poor the State is actually *increasing* the freedom of action of the poor, however much it may be reducing the freedom of the man who pays for poor relief. Spencer answers: "Cutting away men's opportunities one side, to add to them on another, is at best accompanied by a loss." The State, he argues, can only guarantee the freedom of a person to act to the fullest extent of his rights, bounded, as always, by the equal freedom of other men. Within a confined area the State may aid in the *pursuit* of happiness, but it cannot assure that happiness will be attained. That is up to the individual and how he uses his freedom.

How Much Is Enough?

Spencer argues further that even if one grants that aid to the poor should be supplied, it would be impossible to decide its amount. He notes that even among the proponents of "poor-laws" there is considerable divergence of opinion as to what constitutes a suitable "maintenance."

One thinks that a bare subsistence is all that can be fairly demanded. Here is another who hints at something beyond mere necessaries. A third maintains that a few of the enjoyments of life should be provided for. And some of the more consistent, pushing the doctrine to its legitimate result, will rest satisfied with nothing short of community of property.

This passage has a special relevance for our own day, as we hear the debate over the correct amount, but never the propriety, of a guaranteed annual income.

Other Interventions Deplored

Finally, Spencer says the State has no right to educate, to satisfy the mental needs of the population, any more than it has the right to satisfy the population's physical needs through State-run charities. The State may not colonize, since this violates the rights of native peoples, nor can it shoulder the burden for public health, except, interestingly enough, in matters of air and water pollution. Last of all, State action in currency arrangements and postal services are both forbidden as transgressions of the individual's freedom of association and action.

The views which Spencer enunciated in *Social Statics* changed little throughout the remaining fifty years of his life. The same unwavering devotion to individual

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

liberty, the same unflagging espousal of freedom that marked that book can be found in *The Man vs. The State,* Spencer's second important work of political philosophy.

Although the ultimate intent of *The Man vs. The State* is the same as *Social Statics,* the approach is somewhat different. Spencer always referred to himself as a liberal and to his philosophy of government as liberalism. He was speaking, of course, of classical liberalism, of the liberalism exemplified by men like John Locke. About 1860, liberalism of the type that Locke represented underwent a fundamental change. No longer content with merely overseeing a negative government which allowed a broad area for personal freedom, the Liberal party in England forsook its guiding ideals to wholly embrace State intervention. Spencer himself never wearied of pointing out to these "new" liberals how far they had strayed from true liberalism, and how greatly their notion of liberalism differed from his own. A sizable part of the lesson he read to the liberals of his time, that the so-called liberals of the present would do well to ponder, is *The Man vs. The State.*

The first essay in the book pointedly expresses Spencer's disenchantment with the transfiguration of liberalism. Entitled, "The New Toryism," it not only charges the Liberal party with abandoning its own basic precepts, but also with adopting those of the opposition Tory party. While liberalism had always stood for individual rights, voluntary cooperation, and a regime of *contract,* toryism, from the beginning, had stood for privilege, compulsory cooperation, and a regime of *status.* Spencer accounts for the exchange of ideologies this way:

> The gaining of a popular good, being the external conspicuous trait common to Liberal measures in earlier days (then in each case gained by a relaxation of restraints), it has happened that the popular good has come to be sought by Liberals, not as an end to be indirectly gained by relaxations of restraints, but as the end to be directly gained.

The consequences and efficacy of liberal lawmaking, from acts regulating the railroads to laws preventing the sale of beer on Sundays, are considered by Spencer in the four essays following "The New Toryism." In "The Coming Slavery" he reflects on the inability of politicians to see beyond the immediate ramifications of their actions. Pursuing the public welfare through "humanitarian" legislation (such as poor-laws), legislators, knowingly or unknow-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ingly, move a society toward State-tyranny, or as Spencer calls it in "From Freedom to Bondage," a military regime which uses force, or the threat of force to achieve its ends.

Whether or not legislators have the competence, much less the right, to execute the immense responsibilities they are constantly taking on, and whether laws are the best and only ways of solving society's problems, Spencer questions in "The Sins of Legislators" and "Over-Legislation." The needless, oppressive, or simply bad laws so often enacted by a "slow, stupid, extravagant, and unadaptive" officialdom do not simply fail, but frequently worsen the situation they were designed to relieve. And, the more they fail, the louder is the demand that they be multiplied.

Divine Right of Majorities

The Man vs. The State closes with "The Great Political Superstition." In the past, the superstition was the divine right of kings, and in the present it is the divine right of majorities, the divine right of parliaments. Spencer cautions against seeing the proximate good in any widening of State-power and ignoring the ultimate evil that such a widening would bring about. Failure to do this, he says, will produce a state like that which preceded the French Revotion, when there was "so excessive a regulation of men's actions in all their details . . . that life was fast becoming impracticable." He recapitulates the theme of "The New Toryism" with the final lines: "The function of Liberalism in the past was that of putting a limit to the power of kings. The function of true Liberalism in the future will be that of putting a limit to the power of Parliaments."

The more than eighty years that have passed since Spencer wrote those words have done nothing to undermine, and everything to vindicate his warnings. What he stated in *Social Statics* and *The Man vs. The State* affronted the Statist orthodoxy of his time as it affronts the Statist orthodoxy of ours. It is not so important whether Spencer's work had any effect on slowing State-socialism, for he did not expect that it would. What is important is that he spoke for liberty when he felt liberty was threatened. For that, he will not be forgotten.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Fall of the American University

NOT SO LONG AGO Erik von Kuenhnelt-Leddihn entertained a luncheon gathering of The Remnant with a description of the peregrinations of a bad idea. The notion that students have a right to use university premises as a privileged sanctuary from which to carry on a revolutionary war against society and/or the State first took hold in Latin America. Then, after ruining Latin American education, it skipped to Japan. The next stop was Berkeley in California (in 1964, a year before Lyndon Johnson decided to put drafted troops into Vietnam), from which it moved erratically eastward to the grisly climax of Columbia, the deaths at Kent State, and the disruption of Harvard. The European universities were not immune, but the crises in France and West Germany had a shorter duration.

Adam Ulam, a Polish-born Professor of Government at Harvard University, lived through the tumultuous period in Cambridge, Massachusetts, with a constantly growing wonder that the American public high school and private preparatory school could have produced such a totally lack-logic generation of students. They couldn't distinguish between a strike and a boycott. They confused academic life with politics and labor relations. They thought they had a mission to prescribe foreign, military, and economic policy before they had learned something about history and government, not after. Instead of asking for French teachers who could teach French, or mathematicians

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

who knew something about imparting the principles of the calculus, they wanted a faculty that could satisfy their religious, ideological, and political yearnings. In short, they were in the market for anything but learning and the acquisition of skills that might enable them to lead productive or at least unalienated lives.

First Things First

Professor Ulam has put his ruminations on the college scene of the Nineteen Sixties into a wise and searching book, *The Fall of the American University* (Library Press, $7.95, trade distribution by Nash Publishing Company), that is part history and part essay. He starts out with the commonsensical idea that universities should be institutions of learning. Traditionally the university has existed to impart knowledge and skills for a fee. The university may turn out people with ideas about solving social problems, or running governments, or fighting (or abstaining) from wars, but it is not set up to do any of these things directly. Professor Ulam is a first-things-first man, with a gift for aphoristic expression. He doesn't see why classrooms should be used as pulpits, or why professors of English literature should be psychiatrists, or why students should assault deans when they are really mad at Congress for supporting the draft or letting the President fight an undeclared war. He wants the lines of logic to run clear. Above all, he asks for precision in the use of language.

There was the business of the student "strike" at Harvard, for example. A boycott of classes is not a strike. How do you "strike" against something you have paid for? In normal life, if you don't like what you are getting, you ask for money back and take your patronage elsewhere. Harvard's answer to the student "strike" should have been to close down the university. If your patrons don't like your service, they have the right to complain or to go to a store across the street. But the university is under no compulsion to stop teaching Spanish, or the history of the Middle Ages, merely because its President can't at the same time satisfy the students that the Black Panthers are getting justice, or that the White House really knows what it is buying when it asks for a position paper on neo-colonialism in the Third World.

Who Is to Blame?

Adam Ulam does not make the mistake of blaming the young for everything. Our whole society became rather disoriented in the Sixties. The professors who went

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to Washington in the days of Camelot could not have it both ways. They were great when "cost effectiveness" worked. But when, as whiz kid advisers to White House and Pentagon, they supported the strange idea that dedicated Asian Marxist guerrillas would give in to "graduated pressure" in a tropical jungle terrain, they ran the risk of exposing themselves to the students back home in Cambridge as stupid running dogs of a brainless military-industrial complex. When college authorities failed to protect the civil liberties of visiting speakers or business recruiters, radical students drew the correct conclusion that they could get away with anything short of murder.

As Professor Ulam puts it, "in the mid-Sixties it was suddenly discovered that there was one place which miraculously fitted the requisite of every man's ill humor. The university was elitist; it debased learning by letting in utterly unqualified people. It permitted, nay encouraged, promiscuity and the use of drugs; it repressed the young. It advised the Pentagon and big business how to meddle in the affairs of other nations; it bred anti-patriotic feelings and anarchism. It epitomized white supremacy; it stimulated black radicalism and separatism. It was a repository of useless pedantry; it was full of busybodies who, under the pretense of objective study of society, sought power and were eager to submit their fellow citizens to some half-baked schemes of their fabrication." And, so Professor Ulam sums it up, "by 1969 one had to admit that there was an element of truth in *all* those charges!"

In a permissive age the university administrations and faculties let students claim rights and indulgences that were not possessed by ordinary citizens. Students were beyond the reach of ordinary police power. A growing army of university officials came into being to administer a constantly diminishing body of rules. Professors were at once permissive and patronizing. And so, of course, they lost all respect.

The Age of "Relevance"

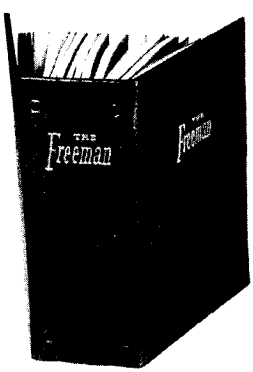
The worst of it was that professors did not defend their own disciplines. They allowed fashionable ideas about "relevance" to undermine their belief in the usefulness of their various subjects. Instead of insisting that the cure for "alienation" is to lure the student into becoming engrossed in a language, a literature, an ancient civilization, or a science, professors allowed students to define "relevance" in terms of current events. There was a great pro-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fusion of courses that confused things that students should worry about with things they should study. As for some of the subjects that go under the name of sociology, Professor Ulam asks why should young men and women be required as part of their expensive higher education to sit through lectures on what they already know and hear incessantly from newspapers, magazines, TV, and their own rap sessions?

In the brave new world of the modern university, students hold forth on ecology and abortion but learn little biology. They can discuss Red China's role in the UN but fail to master a single foreign language. They know all about injustice but scorn history as irrelevant. Everything dissolves into fashionable platitude, and the young arrive at adulthood in "a state of mental fatigue, aimless agitation and anger, incapable of that discriminating approach to public affairs which democracy calls for in its citizens."

So far has the American university "fallen." Professor Ulam wonders whether the "counter-revolution of common sense" will ever restore it to its proper purposes of "promoting learning and advancing knowledge."



HANDSOME BLUE LEATHERLEX

FREEMAN BINDERS

$2.50 each

ORDER FROM: THE FOUNDATION FOR ECONOMIC EDUCATION
IRVINGTON-ON-HUDSON, NEW YORK 10533

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A Paperback Special

INTRODUCTION TO FREEDOM

CLICHÉS OF SOCIALISM **$2.00**

Answers to 76 troublesome slogans, by various authors

THE LAW **1.00**

The case for limited government, by Frederic Bastiat

THE AMERICAN TRADITION **2.00**

About the U. S. and its foundations, by Clarence B. Carson

ECONOMICS IN ONE LESSON **.75**

Seen and unseen aspects of human action, by Henry Hazlitt

THE FREE MARKET AND ITS ENEMY **1.00**

How political power defeats peaceful purposes, by Leonard E. Read

THE MAINSPRING OF HUMAN PROGRESS **.95**

An exciting world history of freedom, by Henry Grady Weaver

* * * * *

All six of these outstanding paperbacks

—a $7.70 total of 1196 pages—only **$5.00**

(Each available separately at list price)

Order from: THE FOUNDATION FOR ECONOMIC EDUCATION, INC.
Irvington-on-Hudson, New York 10533

LICENSED TO USE.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Ideas on Liberty

THE FREEMAN may be forwarded anywhere in the U. S. A. No wrapper required

Place 12-cent postage here

FROM

TO: _____

STREET _____

CITY _____

STATE _____ ZIP CODE

JANUARY 1973

The Premises of Freedom	Donald M. Dozer	3
A Herculean Task	Francis E. Mahaffy	11
Valueless Education	Ray Colvard	15
Before We Burn It Down!	E. F. Wells	25
The Founding of the American Republic:		
18. The Bill of Rights	Clarence B. Carson	31
Drug Legislation—Mainline to Disaster	Robert Patton	45
Herbert Spencer: Apostle of Liberty	Ronald F. Cooney	54
Books:		
The Fall of the American University	John Chamberlain	61

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED